

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTY-SECOND DAY — WEDNESDAY, MAY 4, 2005

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 478).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Martinez.

Absent — Castro; Haggerty; King, T.; Reyna.

The invocation was offered by Scott McIntosh, senior pastor, Westoak Woods Baptist Church, Austin, as follows:

Our Heavenly Father, what a singular honor these men and women have had bestowed on them by the people of the great State of Texas. They sit on our behalf and make decisions applying to each citizen of this glorious state. As they honor their obligations, may they ever remember your blessings on our state. May these men and women remain true to our citizens and stand fast in every test of honor, humility, and integrity for your sake and the sake of Texas.

Most gracious God, we humbly thank you for the honor and privilege of living in a free and just nation at large, and the honorable State of Texas in particular. We thank you for the joy that is ours to live in a state where all people are valued no matter what their history, their ethnicity, or their culture. We thank

you for justice and mercy that so permeate our lives in this magnanimous state, that we do not walk the streets in fear of our government and all can exercise true participation in that government.

Almighty and everlasting God, we humbly ask you, as for the people of the State of Texas in general, so especially for their representatives in this body assembled: That you would be pleased to direct and prosper all their consultations to the advancement, safety, honor, and welfare of the citizens of Texas; that all things may be so ordered and settled by their endeavors, upon the best and surest foundations; and that peace and happiness, truth and justice, may be established among all Texans for all generations. Amen.

The speaker recognized Representative Keel who led the house in the pledges of allegiance to the United States and Texas flags.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Denny and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business in the district:

Martinez on motion of Leibowitz.

CAPITOL PHYSICIAN

The speaker recognized Representative Hughes who presented Dr. George Cathey, Jr., of Quitman as the "Doctor for the Day."

The house welcomed Dr. Cathey and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

HCR 161 - ADOPTED (by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 161**.

The motion prevailed.

The following resolution was laid before the house:

HCR 161, Congratulating the Paris Junior College men's basketball team for winning the 2005 National Junior College Athletic Association championship.

HCR 161 was read and was adopted.

HCR 162 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 162**.

The motion prevailed.

The following resolution was laid before the house:

HCR 162, Honoring Bill Foy, head basketball coach at Paris Junior College, on his selection as the Junior College Coach of the Year by the National Association of Basketball Coaches.

HCR 162 was adopted.

INTRODUCTION OF GUESTS

The speaker recognized Representative Homer who introduced players and coaches of the Paris Junior College men's basketball team.

(Taylor in the chair)

(T. King now present)

HR 1392 - ADOPTED
(by Flynn)

Representative Flynn moved to suspend all necessary rules to take up and consider at this time **HR 1392**.

The motion prevailed.

The following resolution was laid before the house:

HR 1392, Honoring the Sand Flat and Richland Schools in Rains County on the occasion of the May 7, 2005, reunion of former students, teachers, parents, and friends.

HR 1392 was read and was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representatives Wong and Coleman who introduced students from Edgar Allan Poe Elementary School.

HR 1406 - ADOPTED
(by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 1406**.

The motion prevailed.

The following resolution was laid before the house:

HR 1406, Recognizing May 4, 2005, as Children's Mental Health Summit Day in Central Texas.

HR 1406 was read and was adopted.

On motion of Representative Farabee, the names of all the members of the house were added to **HR 1406** as signers thereof.

HR 1473 - ADOPTED
(by Flores)

Representative Flores moved to suspend all necessary rules to take up and consider at this time **HR 1473**.

The motion prevailed.

The following resolution was laid before the house:

HR 1473, Honoring Drs. Jorge Trevino, Rafael Garza, and Mario Ramirez of Hidalgo and Starr Counties for their more than 50 years in the medical profession as physicians.

HR 1473 was adopted.

On motion of Representative Peña, the names of all the members of the house were added to **HR 1473** as signers thereof.

(Haggerty now present)

HCR 165 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 165**.

The motion prevailed.

The following resolution was laid before the house:

HCR 165, Recognizing May 4, 2005, as Paris/Lamar County Day at the State Capitol.

HCR 165 was read and was adopted.

On motion of Representative Farabee, the names of all the members of the house were added to **HCR 165** as signers thereof.

(Reyna now present)

HR 1285 - ADOPTED
(by Farabee)

Representative Farabee moved to suspend all necessary rules to take up and consider at this time **HR 1285**.

The motion prevailed.

The following resolution was laid before the house:

HR 1285, Congratulating Archer County on the occasion of the rededication of its courthouse on May 12, 2005.

HR 1285 was adopted.

HR 1490 - ADOPTED
(by Rose)

Representative Rose moved to suspend all necessary rules to take up and consider at this time **HR 1490**.

The motion prevailed.

The following resolution was laid before the house:

HR 1490, Recognizing May 6, 2005, as Law Day in Austin.

HR 1490 was read and was adopted.

GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING

The following bills were laid before the house and read third time:

SB 1298 ON THIRD READING
(Talton - House Sponsor)

SB 1298, A bill to be entitled An Act relating to restrictions on the transfer of a fuel tank to a metal recycling entity.

SB 1298 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 461 ON THIRD READING
(R. Allen - House Sponsor)

SB 461, A bill to be entitled An Act relating to the confidentiality of and access to certain personal information in instruments recorded with a county clerk.

A record vote was requested.

SB 461 was passed by (Record 479): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chisum; Coleman; Cook, B.; Cook, R.; Crabb; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton;

Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Taylor(C).

Absent, Excused — Martinez.

Absent — Castro; Chavez; Corte; Crownover; Hilderbran; Hope; Morrison; Olivo; Rodriguez.

STATEMENTS OF VOTE

When Record No. 479 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

When Record No. 479 was taken, my vote failed to register. I would have voted yes.

Hope

When Record No. 479 was taken, I was in the house but away from my desk. I would have voted yes.

Olivo

(Krusee in the chair)

SB 376 ON THIRD READING (Zedler - House Sponsor)

SB 376, A bill to be entitled An Act relating to a pilot program for language interpreter services under the medical assistance program.

A record vote was requested.

SB 376 was passed by (Record 480): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Escobar; Farrabe; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Raymond;

Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Krusee(C).

Absent, Excused — Martinez.

Absent — Castro; Chavez; Eiland; Noriega, M.; Olivo; Quintanilla; Thompson.

STATEMENTS OF VOTE

When Record No. 480 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

When Record No. 480 was taken, I was in the house but away from my desk. I would have voted yes.

Olivo

SB 580 ON THIRD READING (Rose - House Sponsor)

SB 580, A bill to be entitled An Act relating to the installment payment of ad valorem taxes by certain veterans.

Amendment No. 1

Representatives Uresti and Solis offered the following amendment to **SB 580**:

Amend **SB 580** in SECTION 1 of the bill, in proposed Subsection (h), Section 31.072, Tax Code, between "Purple Heart" and "and the escrow account" (house committee printing, page 1, line 10), by inserting ", the Congressional Medal of Honor, the Bronze Star Medal, the Silver Star, the Legion of Merit, or a service cross awarded by a branch of the United States Armed Forces".

Amendment No. 1 was adopted.

A record vote was requested.

SB 580, as amended, was passed by (Record 481): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.;

King, P.; King, T.; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Krusee(C).

Absent, Excused — Martinez.

Absent — Castro; Hartnett; Olivo; Quintanilla; Seaman.

STATEMENTS OF VOTE

When Record No. 481 was taken, I was temporarily out of the house chamber. I would have voted yes.

Castro

When Record No. 481 was taken, I was in the house but away from my desk. I would have voted yes.

Olivo

When Record No. 481 was taken, I was in the house but away from my desk. I would have voted yes.

Quintanilla

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

HB 2316 ON SECOND READING

(by Miller)

HB 2316, A bill to be entitled An Act relating to member restrictions for commissioners of the Texas Workforce Commission.

HB 2316 was read second time on April 25 and was postponed until 10 a.m. today.

Representative Miller moved to postpone consideration of **HB 2316** until 10 a.m. May 9.

The motion prevailed.

CSHB 1081 ON SECOND READING

(by Driver)

CSHB 1081, A bill to be entitled An Act relating to suspension or denial of a driver's license for failure to appear, pay a fine, or satisfy a judgment.

CSHB 1081 was read second time on April 26 and was postponed until 10 a.m. today.

Representative Driver moved to postpone consideration of **CSHB 1081** until 10 a.m. May 9.

The motion prevailed.

SB 1006 ON SECOND READING
(Goodman - House Sponsor)

SB 1006, A bill to be entitled An Act relating to the period of time during which a person may be supervised in a pretrial intervention program and the fee that may be charged for the program.

SB 1006 was considered in lieu of **HB 2485**.

SB 1006 was read second time and was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2485 - LAID ON THE TABLE SUBJECT TO CALL

Representative Goodman moved to lay **HB 2485** on the table subject to call.

The motion prevailed.

SB 424 ON SECOND READING
(Branch - House Sponsor)

SB 424, A bill to be entitled An Act relating to the deadline for passing the examination for a license to practice medicine in this state.

SB 424 was considered in lieu of **CSHB 567**.

SB 424 was read second time and was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 567 - LAID ON THE TABLE SUBJECT TO CALL

Representative Branch moved to lay **CSHB 567** on the table subject to call.

The motion prevailed.

CSHB 1698 ON SECOND READING
(by Puente)

CSHB 1698, A bill to be entitled An Act relating to the authority of certain municipal electric utilities to invest funds held in a decommissioning trust.

CSHB 1698 was read second time on April 29 and was postponed until 10 a.m. today.

Representative Puente moved to postpone consideration of **CSHB 1698** until 10 a.m. May 9.

The motion prevailed.

HB 681 ON SECOND READING**(by Gattis)**

HB 681, A bill to be entitled An Act relating to the forfeiture of good conduct time from inmates who file frivolous applications for writ of habeas corpus.

HB 681 was read second time on May 2 and was postponed until 10 a.m. today.

HB 681 - POINT OF ORDER

Representative M. Noriega raised a point of order against further consideration of **HB 681** under Rule 4, Section 32(c) of the House Rules on the grounds that the committee report is inaccurate.

(Corte in the chair)

The chair overruled the point of order.

Amendment No. 1

Representative Gattis offered the following amendment to **HB 681**:

Amend **HB 681** (Committee Printing) as follows:

(1) On page 1, strike lines 5 and 6 and substitute the following:

SECTION 1. Section 498.0045, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(2) On page 1, between lines 14 and 15, insert the following:

(a-1) For purposes of this chapter, an application for a writ of habeas corpus is considered "frivolous" if brought for the purpose of abusing judicial resources.

Amendment No. 1 was adopted.

HB 681 - POINT OF ORDER

Representative M. Noriega raised a point of order against further consideration of **HB 681** under Rule 4, Section 18(a)(1) of the House Rules on the grounds that the committee minutes are inaccurate.

The chair overruled the point of order.

A record vote was requested.

HB 681, as amended, was passed to engrossment by (Record 482): 100 Yeas, 40 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Cook, B.; Cook, R.; Crabb; Crownover; Dawson; Delisi; Denny; Driver; Dutton; Eissler; Elkins; Escobar; Farabee; Flynn; Gattis; Gonzales; Gonzalez Toureilles; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Keel; Keffer, B.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Peña; Phillips;

Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Edwards; Eiland; Farrar; Flores; Frost; Gallego; Geren; Giddings; Herrero; Hochberg; Hodge; Jones, D.; Jones, J.; Leibowitz; Martinez Fischer; McClendon; McReynolds; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Rodriguez; Solis; Thompson; Turner; Uresti; Veasey; Vo.

Present, not voting — Mr. Speaker; Corte(C).

Absent, Excused — Martinez.

Absent — Blake; Castro; Chisum; Davis, J.; Goolsby; Keffer, J.; Menendez.

STATEMENTS OF VOTE

When Record No. 482 was taken, I was temporarily out of the house chamber. I would have voted no.

Castro

I was shown voting no on Record No. 482. I intended to vote yes.

Eiland

(Castro now present)

**MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**CSHB 3540 ON SECOND READING
(by Pitts)**

CSHB 3540, A bill to be entitled An Act relating to certain fiscal matters affecting governmental entities.

(Taylor in the chair)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 14).

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

State Affairs, upon lunch recess today, Desk 9, for a formal meeting, to consider bills before the committee.

Juvenile Justice and Family Issues, upon lunch recess today, Desk 115, for a formal meeting, to consider pending business.

Calendars, upon lunch recess today, 3W.9, for a formal meeting, to set the calendar.

Environmental Regulation, upon lunch recess today, Desk 69, for a formal meeting, to consider **SB 1281**, the companion bill to a previously posted house bill.

Criminal Jurisprudence, upon lunch recess today, Desk 59, for a formal meeting, to consider pending business.

Agriculture and Livestock, upon lunch recess today, Desk 25, for a formal meeting, to consider pending business.

(Speaker in the chair)

RECESS

At 11:55 a.m., the speaker announced that the house would stand recessed until 1:15 p.m. today.

AFTERNOON SESSION

The house met at 1:15 p.m. and was called to order by the speaker.

CSHB 3540 - (pending business)

Amendment No. 1

Representative Hopson offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** in ARTICLE 7 of the bill, in Section 531.080, Government Code, as added by SECTION 7.01 of the bill, by adding the following new Subsection (e) (page 21, between lines 1 and 2):

(e) The executive commissioner shall adopt rules relating to reimbursing providers that dispense drugs purchased under this section. The rules must ensure that:

(1) beneficiaries of all state-funded and state and federally-funded programs under which drugs purchased pursuant to this section are prescribed or dispensed have sufficient access to pharmaceutical care;

(2) participating pharmacies are fairly and adequately reimbursed; and

(3) all pharmacies that are located in and licensed by this state are given the opportunity to participate in prescription drug programs that distribute or dispense drugs purchased under this section.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Gallego offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** as follows:

(1) On page 1, line 15, strike "WAIVER OF AND SUPPLEMENTAL".

(2) In Article 2 of the bill, insert the following appropriately numbered SECTIONS and renumber SECTIONS of the article appropriately:

SECTION _____. Section 1551.101(a), Insurance Code, is amended to read as follows:

(a) An elected or appointed officer or employee who performs service, other than as an independent contractor, for this state, including an institution of higher education, and who is described by this section is eligible to participate in the group benefits program as an employee [~~on the date specified by Section 1551.1055~~].

SECTION _____. Section 1551.102(a), Insurance Code, is amended to read as follows:

(a) An individual who has at least 10 years of service credit, as determined by the board of trustees, for which the individual was eligible to participate in the group benefits program under Section 1551.101 or who has at least five years of membership and five years of military service credited in the Employees Retirement System of Texas and who retires in a manner described by this section is eligible[~~, subject to Section 1551.1055,~~] to participate as an annuitant in the group benefits program.

SECTION _____. Section 1551.111(b), Insurance Code, is amended to read as follows:

(b) Participation is limited to:

(1) an officer or employee of either system who has been an officer or employee of either system [~~following completion of the waiting period described by Section 1551.1055~~];

(2) an eligible dependent of an officer or employee of either system described by Subdivision (1);

(3) an individual who:

(A) was an officer or employee of either system;

(B) has retired from either system[~~, subject to Section 1551.1055~~];

(C) receives or is eligible to receive an annuity from either system or under Chapter 803, Government Code, based on at least 10 years of service credit and is at least 65 years of age; and

(D) has at least 10 years of service credit with a state agency whose employees are authorized to participate in the group benefits program; and

(4) an eligible dependent of a retired officer or employee described by Subdivision (3).

SECTION _____. Section 1551.112(a), Insurance Code, is amended to read as follows:

(a) An individual may participate in the group benefits program as an annuitant[~~, subject to Section 1551.1055,~~] and may obtain coverage for the individual's dependents as any other participating annuitant if the individual:

(1) began employment with, or became an officer of, the Texas Turnpike Authority within the three-year period preceding August 31, 1997;

(2) was an officer or employee of the Texas Turnpike Authority on August 31, 1997;

(3) became an officer or employee of the North Texas Tollway Authority on September 1, 1997; and

(4) retires or is eligible to retire with at least 10 years of service credit under the proportionate retirement program established by Chapter 803, Government Code, or under a public retirement system to which Chapter 803 applies and is at least 65 years of age.

SECTION _____. Section 1551.1055, Insurance Code, is repealed.

SECTION _____. A person who, immediately before the effective date of this Act, would be eligible to participate in the group benefits program established under Chapter 1551, Insurance Code, except that the person's eligibility has not begun under Section 1551.1055, Insurance Code, as that section existed immediately before repeal by this Act, becomes eligible on the effective date of this Act if the person is otherwise eligible to participate in the group benefits plan under Chapter 1551, Insurance Code, as that chapter exists on the effective date of this Act.

(Crownover in the chair)

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Menendez offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** as follows:

(1) On page 14, line 5, through page 17, line 2, strike SECTIONS 5.01, 5.02, 5.03, and 5.04 of the bill and renumber subsequent sections accordingly.

(2) On page 31, between lines 22 and 23, add ARTICLE 11 of the bill to read as follows and renumbering subsequent articles appropriately:

ARTICLE 11. NONSETTLING MANUFACTURER FEES

SECTION 11.01. Chapter 161, Health and Safety Code, is amended by adding Subchapter U to read as follows:

SUBCHAPTER U. FEE ON CIGARETTES AND CIGARETTE TOBACCO PRODUCTS MANUFACTURED BY CERTAIN COMPANIES

Sec. 161.601. PURPOSE. The purpose of this subchapter is to:

(1) prevent nonsettling manufacturers from undermining this state's policy of discouraging underage smoking by offering cigarettes and cigarette tobacco products at prices that are substantially below the prices of cigarettes and cigarette tobacco products of other manufacturers;

(2) protect the tobacco settlement agreement and funding, which has been reduced because of the growth of sales of nonsettling manufacturer cigarettes and cigarette tobacco products, for programs that are funded wholly or partly by payments to this state under the tobacco settlement agreement and recoup for this state settlement payment revenue lost because of sales of nonsettling manufacturer cigarettes and cigarette tobacco products;

(3) provide funding to enforce and administer this subchapter and any legislation relating to nonsettling manufacturers; and

(4) provide funding for any other purpose the legislature determines.

Sec. 161.602. DEFINITIONS. In this subchapter:

(1) "Brand family" means each style of cigarettes or cigarette tobacco products sold under the same trademark and differentiated from one another by means of additional modifiers, including "menthol," "lights," "kings," and "100s." The term includes any style of cigarettes or cigarette tobacco products that have a brand name, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or other indication of product identification that is identical to, similar to, or identifiable with a previously known brand of cigarettes or cigarette tobacco products.

(2) "Cigarette" means any product that contains nicotine and is intended to be burned or heated under ordinary conditions of use. The term includes:

(A) a roll of tobacco wrapped in paper or another substance that does not contain tobacco;

(B) tobacco, in any form, that is functional in a product that, because of the product's appearance, the type of tobacco used in the filler, or the product's packaging and labeling, is likely to be offered to or purchased by a consumer as a cigarette; or

(C) a roll of tobacco wrapped in any substance containing tobacco that, because of the product's appearance, the type of tobacco used in the filler, or the product's packaging and labeling, is likely to be offered to or purchased by a consumer as a cigarette.

(3) "Cigarette tobacco product" means roll-your-own tobacco or tobacco that, because of the tobacco's appearance, type, packaging, or labeling, is suitable for use in making cigarettes and is likely to be offered to or purchased by a consumer for that purpose.

(4) "Manufacturer" means a person that manufactures, fabricates, or assembles cigarettes for sale or distribution. For purposes of this subchapter, the term includes a person that is the first importer into the United States of cigarettes and cigarette tobacco products manufactured outside the United States.

(5) "Nonsettling manufacturer" means a manufacturer of cigarettes that did not sign the tobacco settlement agreement.

(6) "Nonsettling manufacturer cigarettes" means cigarettes manufactured, fabricated, assembled, or imported by a nonsettling manufacturer.

(7) "Nonsettling manufacturer cigarette tobacco products" means cigarette tobacco products manufactured, fabricated, assembled, or imported by a nonsettling manufacturer.

(8) "Tobacco settlement agreement" means the Agreement Regarding Disposition of Settlement Proceeds filed on July 24, 1998, in the United States District Court, Eastern District of Texas, in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91. The term includes the subsequent Clarification of Agreement Regarding Disposition of Settlement Proceeds filed on July 24, 1998, in that litigation.

Sec. 161.603. FEE IMPOSED. (a) A fee is imposed on the sale, use, consumption, or distribution in this state of:

(1) nonsettling manufacturerer cigarettes if a stamp is required to be affixed to a package of those cigarettes under Chapter 154, Tax Code;

(2) nonsettling manufacturer cigarettes that are sold, purchased, or distributed in this state but that are not required to have a stamp affixed to a package of those cigarettes under Chapter 154, Tax Code; and

(3) nonsettling manufacturer cigarette tobacco products that are subject to the tax imposed by Section 155.0211, Tax Code.

(b) The fee imposed by this section does not apply to cigarettes or cigarette tobacco products that are included in computing payments due to be made by a settling manufacturer under the tobacco settlement agreement.

(c) The fee imposed by this subchapter is in addition to any other privilege, license, fee, or tax required or imposed by state law.

(d) Except as otherwise provided by this subchapter, the fee imposed by this subchapter is imposed, collected, paid, administered, and enforced in the same manner, taking into account that the fee is imposed on nonsettling manufacturers, as the taxes imposed by Chapters 154 and 155, Tax Code, as appropriate.

Sec. 161.604. RATE OF FEE. (a) Except as provided by Subsection (b), the fee is imposed at the rate of two cents for:

(1) each nonsettling manufacturer cigarette; and

(2) each 0.09 ounce of nonsettling manufacturer cigarette tobacco product.

(b) On January 1 of each year, the comptroller shall increase the rate of the tax prescribed by Subsection (a) by the greater of:

(1) three percent; or

(2) the percentage increase in the most recent annual revised Consumer Price Index for all Urban Consumers, as published by the Federal Bureau of Labor Statistics of the United States Department of Labor.

Sec. 161.605. DISTRIBUTOR'S REPORT. (a) A distributor required to file a report under Section 154.210 or 155.111, Tax Code, shall, in addition to the information required by those sections, include in that required report, as appropriate:

(1) the number and denominations of stamps affixed to individual packages of nonsettling manufacturer cigarettes during the preceding month;

(2) the number of individual packages of nonsettling manufacturer cigarettes sold or purchased in this state or otherwise distributed in this state for sale in the United States; and

(3) any other information the comptroller considers necessary or appropriate to determine the amount of the fee imposed by this subchapter or to enforce this subchapter.

(b) The information required by Subsections (a)(1) and (2) must be itemized for each place of business and by manufacturer and brand family.

(c) The requirement to report information under this section shall be enforced in the same manner as the requirement to deliver to or file with the comptroller a report required under Section 154.210 or 155.111, Tax Code, as appropriate.

Sec. 161.606. NOTICE AND PAYMENT OF FEE. (a) Each month, not later than the 10th day after the date the comptroller receives the information required by Section 161.605, the comptroller shall:

(1) compute the amount of the fee imposed by this subchapter that each nonsettling manufacturer owes for that reporting period based on that information and any other information available to the comptroller; and

(2) mail to each nonsettling manufacturer a notice of the amount of fee the manufacturer owes.

(b) Not later than the 15th day of the month after the month in which the comptroller mails a nonsettling manufacturer a notice under Subsection (a), the nonsettling manufacturer shall send to the comptroller the amount of the fee due according to the notice.

Sec. 161.607. CERTIFICATION TO ATTORNEY GENERAL. (a) Not later than the first day of each month, a nonsettling manufacturer who is required to pay the fee imposed by this subchapter shall certify to the attorney general that the manufacturer is in compliance with this subchapter and has paid in full the fee imposed by this subchapter.

(b) The attorney general shall develop, maintain, and publish on the attorney general's Internet website a directory listing of all nonsettling manufacturers that have provided current, accurate, and complete certifications.

(c) The attorney general shall provide the list described by Subsection (b) to any person on request.

Sec. 161.608. PREPAYMENT BEFORE OFFERING NONSETTLING MANUFACTURER CIGARETTES OR CIGARETTE TOBACCO PRODUCTS FOR SALE OR DISTRIBUTION IN THIS STATE. (a) If cigarettes or cigarette tobacco products of a nonsettling manufacturer are not offered for sale or distribution in this state on September 1, 2005, the nonsettling manufacturer may not offer those cigarettes or cigarette tobacco products for sale or distribution in this state after that date unless the manufacturer first prepays the fee imposed by this subchapter for sales of cigarettes and cigarette tobacco products that will occur in the first calendar month in which they are sold or distributed in this state.

(b) The amount a nonsettling manufacturer is required to prepay under this section is equal to the greater of:

(1) the rate prescribed by Section 161.604 in effect on that date multiplied by:

(A) the number of cigarettes the comptroller reasonably projects that the nonsettling manufacturer will sell or distribute in this state during that calendar month; and

(B) each 0.09 ounce of nonsettling manufacturer cigarette tobacco products the comptroller reasonably projects that the nonsettling manufacturer will sell or distribute in this state during that calendar month; or

(2) \$50,000.

(c) the fee imposed by this section does not apply to cigarettes or cigarette tobacco products that are included in computing payments due to be made by a settling manufacturer under the tobacco settlement agreement.

(d) The comptroller may require a nonsettling manufacturer to provide any information reasonably necessary to determine the prepayment amount.

(e) The comptroller shall establish procedures to:

(1) reimburse a nonsettling manufacturer if the actual sales or distributions in the first calendar month are less than the projected sales or distributions; and

(2) require additional payments if the actual sales or distributions in the first calendar month are greater than the projected sales or distributions.

(f) A nonsettling manufacturer shall pay the fee imposed by this subchapter in the manner provided by Section 161.606 beginning in the second calendar month in which the manufacturer offers the cigarettes or cigarette tobacco products for sale or distribution in this state.

Sec. 161.609. REPORT TO ATTORNEY GENERAL BEFORE OFFERING NONSETTLING MANUFACTURER CIGARETTES OR CIGARETTE TOBACCO PRODUCTS FOR SALE OR DISTRIBUTION IN THIS STATE. (a) In addition to prepaying the fee required by Section 161.608, a nonsettling manufacturer described by Section 161.608(a) shall, before the date the cigarettes or cigarette tobacco products are offered for sale or distribution in this state, provide to the attorney general on a form prescribed by the attorney general:

(1) the nonsettling manufacturer's complete name, address, and telephone number;

(2) the date that the nonsettling manufacturer will begin offering cigarettes or cigarette tobacco products for sale or distribution in this state;

(3) the names of the brand families of the cigarettes or cigarette tobacco products that the nonsettling manufacturer will offer for sale or distribution in this state;

(4) a statement that the nonsettling manufacturer intends to comply with this subchapter; and

(5) the name, address, telephone number, and signature of an officer of the nonsettling manufacturer attesting to all of the included information.

(b) The attorney general shall make the information provided under this section available to the comptroller.

Sec. 161.610. PENALTIES FOR NONCOMPLIANCE. (a) Cigarettes and cigarette tobacco products of a nonsettling manufacturer that has not complied with this subchapter, including full payment of the fee imposed by this subchapter, shall be treated as cigarettes for which the tax assessed by Chapter 154 or 155, Tax Code, as appropriate, has not been paid, and the manufacturer is subject to all penalties imposed by those chapters for violations of those chapters.

(b) The comptroller shall provide to a nonsettling manufacturer a notice of noncompliance with this subchapter if the manufacturer:

(1) does not pay in full the fee imposed by this subchapter; or

(2) is not included on the list described by Section 161.607(b).

(c) On receipt of the notice of noncompliance, the nonsettling manufacturer may not:

(1) pay the tax imposed by Chapter 154 or 155, Tax Code, as appropriate;

(2) affix to a package of cigarettes the stamp required by Section 154.041, Tax Code; or

(3) otherwise purchase, sell, or distribute cigarettes in this state.

Sec. 161.611. APPLICATION OF SUBCHAPTER. This subchapter applies without regard to Section 154.022, Tax Code, or any other law that might be read to create an exemption for interstate sales.

SECTION 11.02. (a) Not later than September 30, 2005, a nonsettling manufacturer, as that term is defined by Section 161.602, Health and Safety Code, as added by this Act, that is offering cigarettes or cigarette tobacco products for sale or distribution in this state on September 1, 2005, shall provide to the attorney general on a form prescribed by the attorney general:

(1) the nonsettling manufacturer's complete name, address, and telephone number;

(2) the date that the nonsettling manufacturer began offering cigarettes or cigarette tobacco products for sale or distribution in this state;

(3) the names of the brand families of the cigarettes or cigarette tobacco products that the nonsettling manufacturer offers for sale or distribution in this state;

(4) a statement that the nonsettling manufacturer intends to comply with Subchapter U, Chapter 161, Health and Safety Code, as added by this Act; and

(5) the name, address, telephone number, and signature of an officer of the nonsettling manufacturer attesting to all of the included information.

(b) The attorney general shall make the information provided under Subsection (a) of this section available to the comptroller.

SECTION 11.03. Sections 11.01 and 11.02 take effect September 1, 2005.

Amendment No. 3 - Point of Order

Representative Hardcastle raised a point of order against further consideration of Amendment No. 3 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The chair overruled the point of order.

Representative Hardcastle moved to table Amendment No. 3.

A record vote was requested.

The motion to table was lost by (Record 483): 54 Yeas, 84 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anchia; Bailey; Berman; Brown, B.; Brown, F.; Callegari; Cook, R.; Dawson; Delisi; Denny; Deshotel; Eissler; Farabee; Flynn; Geren; Goolsby; Haggerty; Hamilton; Hardcastle; Harper-Brown; Hartnett; Hochberg; Homer; Hopson; Hughes; Hunter; Hupp; Isett; Jackson; Keel; Keffer, J.; King, P.; King, T.; Krusee; Laubenberg; Luna; Madden; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smithee; Talton; Taylor; Thompson; Woolley.

Nays — Allen, A.; Alonzo; Baxter; Blake; Bohac; Bonnen; Branch; Burnam; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Corte; Crabb; Davis, J.; Davis, Y.; Driver; Dukes; Dutton; Edwards; Eiland; Elkins; Escobar;

Farrar; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Griggs; Grusendorf; Guillen; Hamric; Hegar; Herrero; Hilderbran; Hill; Hope; Howard; Jones, J.; Keffer, B.; Kolkhorst; Kuempel; Leibowitz; Martinez Fischer; McCall; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Rodriguez; Rose; Smith, W.; Solis; Solomons; Strama; Straus; Swinford; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Zedler.

Present, not voting — Mr. Speaker; Crownover(C).

Absent, Excused — Martinez.

Absent — Anderson; Castro; Dunnam; Flores; Hodge; Jones, D.; Laney; McClendon; Wong.

STATEMENTS OF VOTE

When Record No. 483 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

When Record No. 483 was taken, my vote failed to register. I would have voted no.

Dunnam

I was shown voting yes on Record No. 483. I intended to vote no.

Krusee

A record vote was requested.

Amendment No. 3 was adopted by (Record 484): 79 Yeas, 55 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Blake; Bonnen; Branch; Burnam; Casteel; Chavez; Chisum; Coleman; Cook, B.; Corte; Crabb; Davis, Y.; Dawson; Driver; Dukes; Dutton; Edwards; Eiland; Escobar; Farrar; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Griggs; Guillen; Hamric; Harper-Brown; Hegar; Herrero; Hilderbran; Hill; Howard; Isett; Jones, J.; Keffer, B.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Martinez Fischer; McReynolds; Menendez; Moreno, J.; Moreno, P.; Mowery; Noriega, M.; Orr; Otto; Paxton; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Rose; Smith, W.; Solis; Strama; Straus; Swinford; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Zedler.

Nays — Anchia; Baxter; Berman; Bohac; Brown, B.; Brown, F.; Callegari; Campbell; Cook, R.; Davis, J.; Delisi; Denny; Deshotel; Dunnam; Eissler; Elkins; Farabee; Flynn; Geren; Haggerty; Hamilton; Hardcastle; Hartnett; Hochberg; Hodge; Homer; Hopson; Hughes; Hunter; Hupp; Jackson; Keel; Keffer, J.; King, P.; King, T.; Luna; Madden; McClendon; Miller; Morrison; Naishtat; Nixon; Olivo; Peña; Riddle; Ritter; Seaman; Smith, T.; Smithee; Solomons; Talton; Taylor; Thompson; Wong; Woolley.

Present, not voting — Mr. Speaker; Crownover(C).

Absent, Excused — Martinez.

Absent — Anderson; Bailey; Castro; Flores; Goodman; Goolsby; Grusendorf; Hope; Jones, D.; McCall; Merritt; Oliveira; Rodriguez.

STATEMENTS OF VOTE

When Record No. 484 was taken, I was in the house but away from my desk. I would have voted no.

Anderson

I was shown voting no on Record No. 484. I intended to vote yes.

Olivo

I was shown voting yes on Record No. 484. I intended to vote no.

Reyna

I was shown voting yes on Record No. 484. I intended to vote no.

Truitt

Amendment No. 4

Representative Miller offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** as follows:

On page 20, line 1 strike "shall" and insert "may".

On page 20, line 14, between "c" and "The" insert "If an agreement is entered into,"

Amendment No. 4 was adopted.

Amendment No. 5

Representative Gallego offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** as follows:

(1) On page 1, line 15, strike "WAIVER OF AND SUPPLEMENTAL".

(2) In Article 2 of the bill, insert the following appropriately numbered SECTIONS and renumber SECTIONS of the article appropriately:

SECTION _____. Section 1551.101(a), Insurance Code, is amended to read as follows:

(a) An elected or appointed officer or employee who performs service, other than as an independent contractor, for this state, including an institution of higher education, and who is described by this section is eligible to participate in the group benefits program as an employee [~~on the date specified by Section 1551.1055~~].

SECTION _____. Section 1551.102(a), Insurance Code, is amended to read as follows:

(a) An individual who has at least 10 years of service credit, as determined by the board of trustees, for which the individual was eligible to participate in the group benefits program under Section 1551.101 or who has at least five years of membership and five years of military service credited in the Employees

Retirement System of Texas and who retires in a manner described by this section is eligible~~[, subject to Section 1551.1055,]~~ to participate as an annuitant in the group benefits program.

SECTION _____. Section 1551.111(b), Insurance Code, is amended to read as follows:

(b) Participation is limited to:

(1) an officer or employee of either system who has been an officer or employee of either system ~~[following completion of the waiting period described by Section 1551.1055];~~

(2) an eligible dependent of an officer or employee of either system described by Subdivision (1);

(3) an individual who:

(A) was an officer or employee of either system;

(B) has retired from either system~~[, subject to Section 1551.1055];~~

(C) receives or is eligible to receive an annuity from either system or under Chapter 803, Government Code, based on at least 10 years of service credit and is at least 65 years of age; and

(D) has at least 10 years of service credit with a state agency whose employees are authorized to participate in the group benefits program; and

(4) an eligible dependent of a retired officer or employee described by Subdivision (3).

SECTION _____. Section 1551.112(a), Insurance Code, is amended to read as follows:

(a) An individual may participate in the group benefits program as an annuitant~~[, subject to Section 1551.1055,]~~ and may obtain coverage for the individual's dependents as any other participating annuitant if the individual:

(1) began employment with, or became an officer of, the Texas Turnpike Authority within the three-year period preceding August 31, 1997;

(2) was an officer or employee of the Texas Turnpike Authority on August 31, 1997;

(3) became an officer or employee of the North Texas Tollway Authority on September 1, 1997; and

(4) retires or is eligible to retire with at least 10 years of service credit under the proportionate retirement program established by Chapter 803, Government Code, or under a public retirement system to which Chapter 803 applies and is at least 65 years of age.

SECTION _____. Section 1551.1055, Insurance Code, is repealed.

SECTION _____. A person who, immediately before the effective date of this Act, would be eligible to participate in the group benefits program established under Chapter 1551, Insurance Code, except that the person's eligibility has not begun under Section 1551.1055, Insurance Code, as that section existed immediately before repeal by this Act, becomes eligible on the effective date of this Act if the person is otherwise eligible to participate in the group benefits plan under Chapter 1551, Insurance Code, as that chapter exists on the effective date of this Act.

Representative Pitts moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 485): 84 Yeas, 56 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Davis, J.; Dawson; Delisi; Denny; Driver; Dutton; Eiland; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Hill; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Phillips; Pitts; Puente; Reyna; Riddle; Ritter; Smith, T.; Smith, W.; Solomons; Swinford; Taylor; Truitt; Van Arsdale; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Edwards; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Hardcastle; Herrero; Hilderbran; Hochberg; Hodge; Homer; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Olivo; Peña; Quintanilla; Raymond; Rodriguez; Rose; Smithee; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo; West.

Present, not voting — Mr. Speaker; Crownover(C).

Absent, Excused — Martinez.

Absent — Bailey; Guillen; Hope; Pickett; Seaman; Straus; Talton.

STATEMENTS OF VOTE

When Record No. 485 was taken, my vote failed to register. I would have voted no.

Guillen

I was shown voting yes on Record No. 485. I intended to vote no.

Hopson

Amendment No. 6

Representative Naishtat offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** in ARTICLE 3 of the bill on page 7, line 2, by inserting the following after the period: "The changes in law made by this Article apply only to state employees who leave state employment on or after September 1, 2005."

Representative Pitts moved to table Amendment No. 6.

A record vote was requested.

The motion to table prevailed by (Record 486): 87 Yeas, 52 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Flores; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Kuempel; Laney; Laubenberg; Madden; McCall; McClendon; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Phillips; Pickett; Pitts; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Baxter; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Escobar; Farabee; Farrar; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Herrero; Hochberg; Hodge; Jackson; Jones, J.; Keel; King, T.; Leibowitz; Martinez Fischer; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Olivo; Peña; Puente; Raymond; Rodriguez; Rose; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker; Crownover(C).

Absent, Excused — Martinez.

Absent — Bailey; Goodman; Hill; Krusee; Luna; Noriega, M.; Quintanilla; Van Arsdale.

STATEMENT OF VOTE

I was shown voting yes on Record No. 486. I intended to vote no.

Isett

Amendment No. 7

Representative Haggerty offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** as follows:

- (1) On page 16, line 16, strike "and adding Subsection (c)".
- (2) Strike page 16, line 23, through page 17, line 2.

(Nixon in the chair)

Amendment No. 7 was adopted.

Amendment No. 8

Representative Hochberg offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by striking Sections 5.05, 5.06, and 5.07 of the bill (committee printing page 17, line 3, through page 18, line 8) and renumbering the subsequent sections of the bill accordingly.

Amendment No. 8 was adopted.

Amendment No. 9

Representative Eissler offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** in Article 5 of the bill (committee printing, page 18, between lines 8 and 9), by inserting the following new section, appropriately numbered, and renumbering the subsequent sections of Article 5 accordingly:

SECTION 5. ____ . Section 46.008, Education Code, is amended to read as follows:

Sec. 46.008. STANDARDS. (a) The commissioner shall establish standards for adequacy of school facilities. The standards must include requirements related to space, educational adequacy, and construction quality. All new facilities constructed after September 1, 1998, must meet the standards to be eligible to be financed with state or local tax funds.

(b) To be eligible to be financed with state or local tax funds, all industrialized buildings, as defined by Section 1202.003, Occupations Code, that are purchased or leased after September 1, 2005, for use as school facilities must be inspected as provided by Subchapter E, Chapter 1202, Occupations Code, to ensure compliance with the mandatory building codes or approved designs, plans, and specifications.

Amendment No. 9 was adopted.

Amendment No. 9 - Vote Reconsidered

Representative Thompson moved to reconsider the vote by which Amendment No. 9 was adopted.

The motion to reconsider prevailed.

(Speaker in the chair)

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative T. King offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** in SECTION 5.08 by deleting lines 11 through 27 and inserting the following:

(h) On request of the commissioner of education or a school district, the comptroller may audit the total taxable value of property in a school district and may revise the annual study findings. The request for audit is limited to corrections and changes in a school district's appraisal roll that occurred after preliminary certification of the annual study findings by the comptroller. Except as otherwise provided by this subsection, the request for audit must be filed with the comptroller not later than the ~~second~~(~~third~~) anniversary of the date of the final certification of the annual study findings. The request for audit may be filed not later than the first anniversary of the date the chief appraiser certifies a change to the appraisal roll if the chief appraiser corrects the appraisal roll under Section 25.25 or 42.41, Tax Code [, and the change results in a material reduction in the total taxable value of property in the school district]. The comptroller shall certify the findings of the audit to the commissioner of education.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Turner offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** (House Committee Report) by striking ARTICLE 6 of the bill (page 19, lines 17 through 21) and substituting the following:

ARTICLE 6. INTERNET LOTTERY TICKET SALES AND PRIZE
REDEMPTION

SECTION 6.01. Subchapter B, Chapter 466, Government Code, is amended by adding Section 466.0145 to read as follows:

Sec. 466.0145. INTERNET TICKET SALES AND PRIZE REDEMPTION BY COMMISSION. (a) The commission may establish a system and procedures necessary to sell lottery tickets through an Internet debit transaction in which a player, over the Internet, authorizes payment for a ticket by using:

(1) an automatic teller machine card or debit card;

(2) a debit account;

(3) an account established with the commission; or

(4) some other system established by the commission that provides a practical means for the player to purchase a ticket over the Internet.

(b) The commission may provide for the redemption of lottery prizes over the Internet for persons who have purchased tickets under Subsection (a).

(c) Participation in a lottery under this section is not considered to be playing a lottery game by telephone under Section 466.015(b).

SECTION 6.02. Section 466.3052(a), Government Code, is amended to read as follows:

(a) A person commits an offense if the person intentionally or knowingly sells a ticket and the person accepts anything other than the following as payment for the ticket:

(1) United States currency;

(2) a negotiable instrument in the form of a check that meets the requirements of Section 3.104, Business & Commerce Code;

(3) a debit made through a financial institution debit card;

(4) a coupon or voucher issued by the commission for purposes of purchasing a lottery ticket; ~~[or]~~

(5) a mail order subscription on a mail order subscription form authorized by the commission; or

(6) for an Internet transaction authorized under Section 466.0145, a debit made to a debit account or an account established with the commission or some other payment method authorized for use with a system established by the commission under that section.

Amendment No. 12

Representative Uresti offered the following amendment to Amendment No. 11:

Amend the Turner Amendment to **CSHB 3540** on page 1, between lines 23 and 24, by inserting the following:

(d) A portion of the proceeds from the Internet sale of lottery tickets under Subsection (a) must be used to support a treatment program for gambling addiction. The program must include a component to educate minors about gambling and gambling addiction.

Amendment No. 12 was adopted.

Amendment No. 13

Representative Hochberg offered the following amendment to Amendment No. 11:

Amend Amendment No. 11 to **CSHB 3540** by Turner by adding the following appropriately numbered section to Article 6 as follows:

SECTION 6. _____. The Texas Lottery Commission shall by rule limit the number of lottery tickets that may be purchased on a single computer or on a single debit or credit card in a day.

Amendment No. 13 was adopted.

Amendment No. 14

Representative Taylor offered the following amendment to Amendment No. 11:

Amend the Turner amendment to **CSHB 3540** by striking the text of the amendment and substituting the following:

Amend **CSHB 3540** by striking page 19, lines 17 through 21 and renumbering subsequent ARTICLES of the bill accordingly.

Representative Turner moved to table Amendment No. 14.

A record vote was requested.

The motion to table was lost by (Record 487): 48 Yeas, 96 Nays, 1 Present, not voting.

Yeas — Allen, R.; Alonzo; Bailey; Brown, F.; Campbell; Casteel; Chisum; Corte; Davis, Y.; Delisi; Dukes; Dutton; Edwards; Eiland; Escobar; Farabee; Flores; Geren; Giddings; Gonzalez Toureilles; Goodman; Grusendorf; Hamilton; Hamric; Hochberg; Hope; Hunter; Hupp; Isett; Keel; Keffer, J.; Krusee; Kuempel; Luna; McCall; McClendon; Noriega, M.; Oliveira; Pitts; Puente; Smithee; Solis; Straus; Swinford; Turner; Uresti; Villarreal; Woolley.

Nays — Allen, A.; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Burnam; Callegari; Castro; Coleman; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Dawson; Denny; Deshotel; Driver; Dunnam; Eissler; Elkins; Farrar; Flynn; Frost; Gattis; Gonzales; Goolsby; Griggs; Haggerty; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard; Hughes; Jackson; Jones, D.; Keffer, B.; King, P.; King, T.; Kolkhorst; Laney; Laubenberg; Leibowitz; Madden; Martinez Fischer; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Olivo; Orr; Otto; Paxton; Peña; Phillips;

Pickett; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Strama; Talton; Taylor; Thompson; Truitt; Van Arsdale; Veasey; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez.

Absent — Chavez; Gallego; Guillen; Jones, J.

STATEMENTS OF VOTE

When Record No. 487 was taken, my vote failed to register. I would have voted no.

Gallego

When Record No. 487 was taken, my vote failed to register. I would have voted yes.

Guillen

I was shown voting no on Record No. 487. I intended to vote yes.

Hodge

I was shown voting yes on Record No. 487. I intended to vote no.

Krusee

A record vote was requested.

Amendment No. 14 was adopted by (Record 488): 89 Yeas, 52 Nays, 1 Present, not voting.

Yeas — Anchia; Anderson; Baxter; Berman; Blake; Bohac; Brown, B.; Burnam; Callegari; Castro; Chavez; Coleman; Cook, B.; Cook, R.; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Goolsby; Griggs; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Homer; Hopson; Howard; Hughes; Jackson; Jones, D.; Keffer, B.; King, P.; Kolkhorst; Laney; Laubenberg; Leibowitz; Martinez Fischer; McReynolds; Merritt; Miller; Moreno, J.; Moreno, P.; Mowery; Naishtat; Nixon; Noriega, M.; Orr; Otto; Paxton; Peña; Phillips; Pickett; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Talton; Taylor; Thompson; Truitt; Van Arsdale; Veasey; Vo; West; Wong; Zedler.

Nays — Allen, A.; Allen, R.; Alonzo; Bailey; Bonnen; Branch; Brown, F.; Campbell; Casteel; Chisum; Corte; Crabb; Davis, Y.; Dukes; Dutton; Eiland; Eissler; Flores; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Grusendorf; Guillen; Haggerty; Hamric; Hilderbran; Hochberg; Hodge; Hope; Hunter; Hupp; Isett; Keel; Keffer, J.; King, T.; Kuempel; Luna; Madden; McCall; McClendon; Morrison; Oliveira; Pitts; Puente; Solis; Swinford; Turner; Uresti; Villarreal; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez.

Absent — Edwards; Hamilton; Jones, J.; Krusee; Menendez; Olivo; Straus.

STATEMENTS OF VOTE

I was shown voting no on Record No. 488. I intended to vote yes.

Bonnen

When Record No. 488 was taken, my vote failed to register. I would have voted yes.

Hamilton

I was shown voting no on Record No. 488. I intended to vote yes.

Hope

I was shown voting no on Record No. 488. I intended to vote yes.

J. Keffer

When Record No. 488 was taken, I was in the house but away from my desk. I would have voted yes.

Olivo

Amendment No. 11 was withdrawn.

Amendment No. 15

Representative J. Davis offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** as follows:

(1) On page 22, line 6, strike "a continuing care retirement community" and substitute the following:

an entity that provides on a single campus a continuum of services, including independent living services, licensed assisted living services, and licensed nursing facility care services, and that:

(A) operates under a continuing care retirement community certificate of authority issued by the Texas Department of Insurance; or

(B) over a 12-month period, provides a greater number of combined patient days of service to independent living and assisted living residents, not including services provided to persons in licensed nursing facility beds, than the patient days of service provided to nursing facility residents

(2) On page 22, line 10, between "fee" and the underscored colon, insert "payment".

(3) On page 22, lines 18-19, strike "in an amount that will produce annual revenues of not more than six percent of the institution's" and substitute "so that the fee does not produce annual revenues greater than six percent of the".

(4) On page 27, line 6, strike "facility's" and substitute "[facility's]".

(Nixon in the chair)

Amendment No. 15 was adopted.

Amendment No. 16

Representative Hopson offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540**, in ARTICLE 7, by adding the following appropriately numbered section to the article and renumbering the subsequent sections of the article accordingly:

SECTION 7.__. Section 531.070(h), Government Code, is amended to read as follows:

(h) Subject to Subsection (i), the commission shall negotiate with manufacturers and labelers, and may negotiate with ~~[including]~~ generic manufacturers and labelers, to obtain supplemental rebates for prescription drugs provided under:

(1) the Medicaid vendor drug program in excess of the Medicaid rebates required by 42 U.S.C. Section 1396r-8 and its subsequent amendments;

(2) the child health plan program; and

(3) any other state program administered by the commission or a health and human services agency, including community mental health centers and state mental health hospitals.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Raymond offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540**, on page 25, by striking lines 1-2 and substituting the following:

money shall only be used to support increases in Medicaid reimbursement rates for institutions.

Amendment No. 17 was withdrawn.

Amendment No. 18

Representative Gattis offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by striking Section 8.02 of the bill (page 26, lines 13-26) and substituting:

SECTION 8.02. Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.078–531.081 to read as follows:

Sec. 531.078. QUALITY ASSURANCE FEES ON CERTAIN WAIVER PROGRAM SERVICES. (a) In this section, "gross receipts" means money paid as compensation for services provided to another person. The term does not include a charitable contribution.

(b) The executive commissioner by rule shall establish a quality assurance fee program as provided by this section and impose a quality assurance fee on persons providing services under a home and community services waiver or a community living assistance and support services waiver.

(c) The executive commissioner shall establish the fee at an amount that will produce annual revenues of not more than six percent of the gross receipts of a person from services the person provides under the waiver.

(d) The executive commissioner shall adopt rules governing:

(1) the reporting required to compute and collect the fee and the manner and times of collecting the fee; and

(2) the administration of the fee, including the imposition of penalties for a violation of the rules.

(e) Fees collected under this section shall be deposited in the waiver program quality assurance fee account.

Sec. 531.079. WAIVER PROGRAM QUALITY ASSURANCE FEE ACCOUNT. (a) The waiver program quality assurance fee account is a dedicated account in the general revenue fund. The account is exempt from the application of Section 403.095. Interest earned on money in the account shall be credited to the account.

(b) The account consists of fees collected under Section 531.078 and interest earned on money in the account.

(c) Subject to legislative appropriation and state and federal law, money in the account may be appropriated only to the commission to increase reimbursement rates paid under the home and community services waiver program or the community living assistance and support services waiver program or to offset allowable expenses under the state Medicaid program.

Sec. 531.080. REIMBURSEMENT OF WAIVER PROGRAMS. Subject to legislative appropriation and state and federal law, the commission shall use money from the waiver program quality assurance fee account, together with any federal money available to match money from the account, to increase reimbursement rates paid under the home and community services waiver program or the community living assistance and support services waiver program.

Sec. 531.081. INVALIDITY; FEDERAL FUNDS. If any portion of Sections 531.078–531.080 is held invalid by a final order of a court that is not subject to appeal, or if the commission determines that the imposition of the quality assurance fee and the expenditure of the money collected as provided by those sections will not entitle this state to receive additional federal money under the Medicaid program, the commission shall:

(1) stop collection of the quality assurance fee; and

(2) not later than the 30th day after the date the collection of the quality assurance fee is stopped, return any money collected under Section 531.078, but not spent under Section 531.080, to the persons who paid the fees in proportion to the total amount paid by those persons.

Amendment No. 18 was adopted.

Amendment No. 19

On behalf of Representative Geren, Representative Pitts offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** as follows:

(1) On page 29, line 5 strike "September 1, 2005" and substitute "November 1, 2005".

Amendment No. 19 was adopted.

Amendment No. 20

Representative Pickett offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** (committee printing) as follows:

(1) On page 29, strike lines 18-27 and substitute: pounds or less is:

(1) \$43 [~~\$40.50~~] for a vehicle the model year of which is more than six years before the year in which the registration year begins; or

(2) [~~\$50.50 for a vehicle the model year of which is more than three years but is six years or less before the year in which the registration year begins; or~~]

[~~(3)~~] \$58.50 for a vehicle the model year of which is six [~~three~~] years or less before the year in which the registration year begins.

(2) On page 31, strike lines 10-22.

Amendment No. 20 was adopted.

Amendment No. 21

Representative Coleman offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540**, on page 29, line 14, by striking Section 10.02 in its entirety and by renumbering the remaining sections accordingly.

Amendment No. 21 was withdrawn.

Amendment No. 22

Representative Turner offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by striking SECTION 10.03 of the bill (committee printing page 30, lines 1-19) and renumbering subsequent SECTIONS of the bill accordingly.

Amendment No. 22 was withdrawn.

Amendment No. 23

Representative Hegar offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered SECTIONS to ARTICLE 10 of the bill and renumbering subsequent SECTIONS of the article accordingly:

SECTION 10.__. Section 522.021(a), Transportation Code, is amended to read as follows:

(a) An application for a commercial driver's license or commercial driver learner's permit must include:

(1) the full name and current residence and mailing address of the applicant;

(2) a physical description of the applicant, including sex, height, and eye color;

(3) the applicant's date of birth;

(4) the applicant's social security number, unless the application is for a nonresident commercial driver's license and the applicant is a resident of a foreign jurisdiction;

(5) certifications, including those required by 49 C.F.R. Section 383.71(a); [~~and~~]

(6) if the application is for a nonresident commercial driver's license and the applicant is a resident of a foreign jurisdiction, a copy of:

(A) a social security card; or

(B) a passport issued to the applicant by the country of which the applicant is a resident and a visa, each containing an identification number and an expiration date; and

(7) any other information required by the department.

SECTION 10. __. Section 522.029, Transportation Code, is amended by amending Subsection (a) and adding Subsection (j) to read as follows:

(a) The fee for a commercial driver's license or commercial driver learner's permit issued by the department is \$60, except as provided by Subsections (f), ~~(and)~~ (h), and (j).

(j) The fee for a nonresident commercial driver's license is \$100.

SECTION 10. __. Section 522.051, Transportation Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) Except as provided by Subsection (f) and Section 522.033, an original commercial driver's license or commercial driver learner's permit expires six years after the applicant's next birthday.

(f) A nonresident commercial driver's license issued to an applicant described by Section 522.021(a)(6)(B) who submitted a copy of a visa expires on the date the person's visa expires.

Amendment No. 23 was adopted.

Amendment No. 24

Representative Isett offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by inserting an appropriately numbered article and renumbering subsequent articles accordingly:

ARTICLE __. INTEREST ON CERTAIN TAX REFUNDS

SECTION __.01. Section 111.064, Tax Code, is amended by amending Subsections (a), (c), and (f) and adding Subsection (c-1) to read as follows:

(a) Except as otherwise provided by this section ~~Subsections (b) and (c)~~, in a comptroller's final decision on a claim for refund or in an audit, interest is at the rate set in Section 111.060 on the amount found to be erroneously paid for a period:

(1) beginning on the latest ~~later~~ of:

(A) 60 days after the date of payment;

(B) ~~or~~ the due date of the tax report; or

(C) the date the claim for the refund is filed; and

(2) ending on, as determined by the comptroller, either the date of allowance of credit on account of the comptroller's final decision or audit or a date not more than 10 days before the date of the refund warrant.

(c) For a refund claimed before September 1, 2005, and granted for a report period due on or after January 1, 2000, the rate of interest is the rate set in Section 111.060. For a refund claimed on or after September 1, 2005, and granted for a report period due on or after January 1, 2000, the rate of interest is the lesser of:

(1) the average rate of interest earned on deposits in the state treasury during the period for which interest is paid on the refund, as determined by the comptroller; or

(2) the rate set in Section 111.060.

(c-1) A refund, without regard to the date claimed, for a report period due before January 1, 2000, does not accrue interest.

(f) A local revenue fund is not subject to Subsections (a)-(c-1) [~~(a)-(e)~~]. In this subsection, "local revenue fund" includes a court cost, a fee, a fine, or a similar charge collected by a municipality, a county, or a court of this state and remitted to the comptroller.

SECTION __.02. This article takes effect September 1, 2005.

Amendment No. 24 was adopted.

Amendment No. 25

Representative Eissler offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** in Article 5 of the bill (committee printing, page 18, between lines 8 and 9), by inserting the following new section, appropriately numbered, and renumbering the subsequent sections of Article 5 accordingly:

SECTION 5. __. Section 46.008, Education Code, is amended to read as follows:

Sec. 46.008. STANDARDS. (a) The commissioner shall establish standards for adequacy of school facilities. The standards must include requirements related to space, educational adequacy, and construction quality. All new facilities constructed after September 1, 1998, must meet the standards to be eligible to be financed with state or local tax funds.

(b) To be eligible to be financed with state or local tax funds, all industrialized buildings, as defined by Section 1202.003, Occupations Code, that are purchased or leased after September 1, 2005, for use as school facilities must be inspected as provided by Subchapter E, Chapter 1202, Occupations Code, to ensure compliance with the mandatory building codes or approved designs, plans, and specifications. The cost of the inspections shall be paid by the manufacturers or builders of the industrialized buildings as follows. The Texas Commission of Licensing and Regulation shall set the amount of registration fees for the manufacturers or builders of industrialized buildings under Chapter 1202 Occupations Code, and the amount of inspection fees under this section, in an amount sufficient to pay for the direct and indirect costs of inspections under this section.

Amendment No. 25 was adopted.

Amendment No. 26

Representative J. Keffer offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered Articles and renumbering subsequent Articles accordingly:

ARTICLE __. POWERS AND DUTIES OF COMPTROLLER AND
PROVISIONS RELATED TO TAXES COLLECTED BY THE
COMPTROLLER OR LOCAL ENTITIES

SECTION __.01. Section 442.015, Government Code, is amended by adding Subsection (h) to read as follows:

(h) The comptroller may manage the assets of the Texas preservation trust fund account in the same manner as the comptroller may manage the assets of certain permanent funds under Section 403.1068.

SECTION __.02. Section 552.025(c), Government Code, is amended to read as follows:

(c) Subchapter C does not authorize withholding from the public or limiting the availability to the public of a written determination letter, technical advice memorandum, or ruling that concerns a tax matter and that is issued by a governmental body with taxing authority, provided that, to preserve taxpayer confidentiality, a governmental body with taxing authority shall remove any information that identifies a taxpayer from the letter, memorandum, or ruling.

SECTION __.03. Section 285.063, Health and Safety Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The district shall submit to the comptroller a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this subchapter.

SECTION __.04. Section 775.0753, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) The district shall submit to the comptroller a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this subchapter.

SECTION __.05. Section 776.0753, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) The district shall submit to the comptroller a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held as provided by this subchapter.

SECTION __.06. Article 1.16(b), Insurance Code, is amended to read as follows:

(b) Assessments for the expenses of such domestic examination which shall be sufficient to meet all the expenses and disbursements necessary to comply with the provisions of the laws of Texas relating to the examination of insurance companies and to comply with the provisions of this Article and Articles 1.17 and 1.18 of this Code, shall be made by the State Board of Insurance upon the corporations or associations to be examined taking into consideration annual premium receipts, and/or admitted assets that are not attributable to 90 percent of pension plan contracts as defined in Section 818(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 818(a)), and/or insurance in force; provided such assessments shall be made and collected as follows: (1) expenses attributable

directly to a specific examination including employees' salaries and expenses and expenses provided by Section 803.007 [~~Article 1.28~~] of this Code shall be collected at the time of examination; (2) assessments calculated annually for each corporation or association which take into consideration annual premium receipts, and/or admitted assets that are not attributable to 90 percent of pension plan contracts as defined in Section 818(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 818(a)), and/or insurance in force shall be assessed annually for each such corporation or association. In computing the assessments, the board may not consider insurance premiums for insurance contracted for by a state or federal governmental entity to provide welfare benefits to designated welfare recipients or contracted for in accordance with or in furtherance of Title 2, Human Resources Code, or the federal Social Security Act (42 U.S.C. Section 301 et seq.). The amount of all examination and evaluation fees paid in each taxable year to the State of Texas by an insurance carrier shall be allowed as a credit on the amount of premium taxes due [~~under this article~~]. The limitations provided by Sections 803.007(1) and (2)(B) of this code for domestic insurance companies apply to foreign insurance companies.

SECTION __.07. Section 222.002(b), Insurance Code, is amended to read as follows:

(b) Except as otherwise provided by this section, in determining an insurer's taxable gross premiums or a health maintenance organization's taxable gross revenues, the insurer or health maintenance organization shall include the total gross amounts of premiums, membership fees, assessments, dues, revenues, and other considerations received by the insurer or health maintenance organization in a calendar year from any kind of health maintenance organization certificate or contract or insurance policy or contract covering risks on individuals or groups [~~a person~~] located in this state and arising from the business of a health maintenance organization or the business of life insurance, accident insurance, health insurance, life and accident insurance, life and health insurance, health and accident insurance, life, health, and accident insurance, including variable life insurance, credit life insurance, and credit accident and health insurance for profit or otherwise or for mutual benefit or protection.

SECTION __.08. Section 223.003(a), Insurance Code, is amended to read as follows:

(a) An annual tax is imposed on all [~~each title insurance company that receives~~] premiums from the business of title insurance. The rate of the tax is 1.35 percent of [~~the~~] title insurance [~~company's~~] taxable premiums for a calendar year, including any premiums retained by a title insurance agent as provided by Section 223.005. For purposes of this chapter, a person engages in the business of title insurance if the person engages in an activity described by Section 2501.005.

SECTION __.09. Section 252.003, Insurance Code, is amended to read as follows:

Sec. 252.003. PREMIUMS SUBJECT TO TAXATION. An insurer shall pay maintenance taxes under this chapter on the correctly reported gross premiums [~~collected~~] from writing insurance in this state against loss or damage by:

- (1) bombardment;
- (2) civil war or commotion;
- (3) cyclone;
- (4) earthquake;
- (5) excess or deficiency of moisture;
- (6) explosion as defined by Article 5.52;
- (7) fire;
- (8) flood;
- (9) frost and freeze;
- (10) hail;
- (11) insurrection;
- (12) invasion;
- (13) lightning;
- (14) military or usurped power;
- (15) an order of a civil authority made to prevent the spread of a conflagration, epidemic, or catastrophe;
- (16) rain;
- (17) riot;
- (18) the rising of the waters of the ocean or its tributaries;
- (19) smoke or smudge;
- (20) strike or lockout;
- (21) tornado;
- (22) vandalism or malicious mischief;
- (23) volcanic eruption;
- (24) water or other fluid or substance resulting from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes, or other conduits or containers;
- (25) weather or climatic conditions; ~~[or]~~
- (26) windstorm;
- (27) an event covered under a home warranty insurance policy; or
- (28) an event covered under an inland marine insurance policy.

SECTION __.10. Section 271.002(a), Insurance Code, is amended to read as follows:

(a) A maintenance fee is imposed on all ~~[each insurer with gross]~~ premiums subject to assessment under Section 271.006.

SECTION __.11. Section 1502.053, Insurance Code, is amended to read as follows:

Sec. 1502.053. EXEMPTION FROM CERTAIN TAXES. (a) The issuer of a [A] children's health benefit plan approved under Section 1502.051 [issuer] is not subject to the premium tax or the tax on revenues imposed under Chapter 222 with respect to money received for coverage provided under that plan.

(b) The issuer of a children's health benefit plan is not subject to the retaliatory tax imposed under Chapter 281 with respect to money received for coverage provided under that plan.

SECTION __.12. Section 383.101, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) The district shall submit to the comptroller a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this subchapter.

SECTION __.13. Section 387.012, Local Government Code, is amended to read as follows:

Sec. 387.012. EFFECTIVE DATE OF TAX. (a) The adoption of the tax, the change of the tax rate, or the repeal of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date the comptroller receives a notice of the results of the election adopting, changing, or repealing the tax.

(b) The district shall submit to the comptroller a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this chapter.

SECTION __.14. Section 111.009, Tax Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) A person having a direct interest in a determination may petition the comptroller for a redetermination and may assert legal and factual grounds to challenge the assessment.

(e) The person filing the petition may assert credits or claim a refund for the same tax type and same period. The assertion for the credits or the claim for the refund must be included in the petition or must be filed within the applicable limitations period, except as otherwise provided by this section. The comptroller shall adopt procedural rules that ensure that redetermination proceedings are expeditiously finalized and that provide that all parties receive equal time to prepare and submit their positions before the hearing.

(f) A credit or refund for the same tax type and same period may be asserted or claimed in the redetermination proceeding for all issues if the credit is asserted or the refund is claimed not later than the first anniversary of the date the petition for redetermination is filed. This subsection does not authorize a filing for a separate credit or refund that is not authorized under Section 111.107(b).

SECTION __.15. Section 111.016, Tax Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The comptroller may assess the responsible individual liable under Subsection (b) at any time before the first anniversary of the later of:

(1) the date the tax liability of the corporation, association, limited liability company, limited partnership, or other legal entity becomes final; or

(2) the date the bankruptcy proceeding is closed or dismissed.

(f) An individual that the comptroller asserts is liable for the payment of tax or other money under this section as a responsible individual is entitled to:

(1) reasonable notice from the comptroller that specifies the basis for that assertion and the amount of tax or money for which the comptroller asserts the individual is liable; and

(2) contest that assertion in a manner consistent with the remedies available to taxpayers under this title.

SECTION __.16. Subchapter B, Chapter 111, Tax Code, is amended by adding Section 111.0515 to read as follows:

Sec. 111.0515. RESTRICTED OR CONDITIONAL PAYMENTS OF TAXES, PENALTIES, AND INTEREST PROHIBITED. Unless the restriction or condition is authorized by this title, a restriction or condition placed on a check in payment of taxes by the maker of the check that purports to limit the amount of taxes owed to an amount less than that stated in the comptroller's records, or a restriction or condition placed on a check in payment of penalties and interest on delinquent taxes by the maker that purports to limit the amount of the penalties and interest to an amount less than the amount of penalties and interest accrued on the delinquent taxes, is void.

SECTION __.17. Subchapter B, Chapter 111, Tax Code, is amended by adding Section 111.065 to read as follows:

Sec. 111.065. EXPEDITIOUS ASSISTANCE FOR TAXPAYERS. (a) As expeditiously as possible, the comptroller shall:

(1) refund or credit any amount of tax overpaid by a person; and

(2) correct any erroneous assessment.

(b) The comptroller shall amend any audit or the records of any audit period as expeditiously as possible if necessary to comply with Subsection (a).

SECTION __.18. Section 111.107, Tax Code, is amended to read as follows:

Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. (a) Except as otherwise expressly provided, a person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final; or

(3) under Chapter 162 [~~153~~], except Section 162.126(f), 162.128(d), 162.228(f), or 162.230(d) [~~153.1195(e), 153.121(d), 153.2225(e), or 153.224(d)~~].

(b) A person may not refile a refund claim for the same transaction or item, tax type, period, and ground or reason that was previously denied by the comptroller in a refund hearing.

SECTION __.19. Section 151.006, Tax Code, is amended to read as follows:

Sec. 151.006. "SALE FOR RESALE". "Sale for resale" means a sale of:

(1) tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of reselling it in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business in the form or condition in which it is acquired or as an attachment to or integral part of other tangible personal property or taxable service;

(2) tangible personal property to a purchaser for the sole purpose of the purchaser's leasing or renting it in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business to another person, but not if incidental to the leasing or renting of real estate;

(3) tangible personal property to a purchaser who acquires the property for the purpose of transferring it in the United States of America or a possession or territory of the United States of America or in the United Mexican States as an integral part of a taxable service; or

(4) a taxable service performed on tangible personal property that is held for sale by the purchaser of the taxable service.

SECTION __.20. Section 151.011(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (c) [~~of this section~~], "use" means the exercise of a right or power incidental to the ownership of tangible personal property over tangible personal property, including tangible personal property other than printing [~~printed~~] material that has been processed, fabricated, or manufactured into other property or attached to or incorporated into other property transported into this state, and, except as provided by Section 151.056(b) [~~of this code~~], includes the incorporation of tangible personal property into real estate or into improvements of real estate whether or not the real estate is subsequently sold.

SECTION __.21. Section 151.3111(b), Tax Code, is amended to read as follows:

(b) Subsection (a) does not apply to the performance of a service on:

(1) tangible personal property that would be exempted solely because of the exempt status of the seller of the property;

(2) tangible personal property that is exempted solely because of the application of Section 151.303, 151.304, or 151.306;

(3) motor vehicles, trailers, or semitrailers as defined, taxed, or exempted by Chapter 152; [~~or~~]

(4) a taxable boat or motor as defined by Section 160.001; [-]

(5) tangible [~~(6) Tangible~~] personal property exempt under Section 151.326; or

(6) through December 31, 2007, tangible personal property that is exempted solely because of the application of Section 151.3162.

SECTION __.22. Sections 151.3162(d) and (e), Tax Code, are amended to read as follows:

(d) The exemption provided by Subsection (b) takes effect January 1, 2008. Until that date, a person is entitled to an exemption [~~a credit or refund~~] of a portion of the taxes paid under this chapter on an item that after January 1, 2008, will be exempted from the taxes imposed by this chapter under Subsection (b). The amount of the exemption [~~credit or refund~~] is determined as follows:

(1) for an item for which the taxable event occurs on or after October 1, 2001, and before January 1, 2004, the taxpayer is entitled to an exemption [~~a refund or credit~~] in an amount equal to 33 percent of the tax paid on the item;

(2) for an item for which the taxable event occurs on or after January 1, 2004, and before January 1, 2006, the taxpayer is entitled to an exemption ~~[a refund or credit]~~ in an amount equal to 50 percent of the tax paid on the item; and

(3) for an item for which the taxable event occurs on or after January 1, 2006, and before January 1, 2008, the taxpayer is entitled to an exemption ~~[a refund or credit]~~ in an amount equal to 75 percent of the tax paid on the item.

(e) A taxpayer entitled to a credit or refund under Subsection (d), as that subsection existed on September 30, 2005, may elect to receive either a credit or a refund. A taxpayer who elects to receive a credit must claim the credit on the return for a period that ends not later than the first anniversary of the date on which the taxable event occurred. A taxpayer who elects to receive a refund must apply to the comptroller for the refund before or during the calendar year following the year in which the tax on the item was paid.

SECTION __.23. Section 151.419(b), Tax Code, is amended to read as follows:

(b) The application must be accompanied with:

(1) an agreement that is signed by the applicant or a responsible officer of an applicant corporation, that is in a form prescribed by the comptroller, and that provides that the applicant agrees to:

(A) accrue and pay all taxes imposed by Subchapter D ~~[of this chapter]~~ on the storage and use of all taxable items sold to or leased or rented by the permit holder unless the items are exempted from the taxes imposed by this chapter; and

(B) pay the imposed taxes monthly on or before the 20th day of the month following the end of each calendar month; ~~and~~

~~[(C) waive the discount permitted by Section 151.423 of this code on the payment of all taxes under the direct payment permit only;]~~

(2) a description, in the amount of detail that the comptroller requires, of the accounting method by which the applicant proposes to differentiate between taxable and exempt transactions; and

(3) records establishing that the applicant is a responsible person who annually purchases taxable items that have a value when purchased of \$800,000 or more excluding the value of taxable items for which resale certificates were or could have been given.

SECTION __.24. Sections 151.424(a) and (c), Tax Code, are amended to read as follows:

(a) A taxpayer who prepays the taxpayer's tax liability on the basis of a reasonable estimate of the tax liability for a quarter in which a prepayment is made or for a month in which a prepayment is made may deduct and withhold 1.25 percent of the amount of the prepayment ~~[in addition to the amount permitted to be deducted and withheld under Section 151.423 of this code]~~. A reasonable estimate of the tax liability must be at least 90 percent of the tax ultimately due or the amount of tax paid in the same quarter, or month, if a monthly prepayer, in the last preceding year. Failure to prepay a reasonable estimate of the tax will result in the loss of the entire prepayment discount.

(c) A taxpayer who prepays the tax liability as permitted by this section must file a report when due as provided by this chapter. The amount of a prepayment made by a taxpayer under this section shall be credited against the amount of actual tax liability of the taxpayer as shown on the tax report of the taxpayer. If there is a tax liability owed by the taxpayer in excess of the prepayment credit, the taxpayer shall send to the comptroller the remaining tax liability at the time of filing the quarterly or monthly report. ~~[The taxpayer is entitled to the deduction permitted under Section 151.423 of this code on the amount of the remaining tax liability.]~~

SECTION __.25. Section 151.425, Tax Code, is amended to read as follows:

Sec. 151.425. FORFEITURE OF DISCOUNT OR REIMBURSEMENT. If a taxpayer fails to file a report required by this chapter when due or to pay the tax when due, the taxpayer forfeits any claim to a ~~[deduction or]~~ discount allowed under ~~[Section 151.423 or]~~ Section 151.424 ~~[of this code]~~.

SECTION __.26. Section 151.428(c), Tax Code, is amended to read as follows:

(c) The reporting, collection, refund, and penalty provisions of this chapter and Subtitle B ~~[of this title]~~ apply to the payments required by this section, except that Section ~~[Sections 151.423 and]~~ 151.424 does ~~[of this code do]~~ not apply to this section.

SECTION __.27. Section 152.047(a), Tax Code, is amended to read as follows:

(a) Except as inconsistent with this chapter and rules adopted under this chapter, the seller of a motor vehicle shall report and pay the tax imposed on a seller-financed sale to the comptroller on the seller's receipts from seller-financed sales in the same manner as the sales tax is reported and paid by a retailer under Sections 151.401, 151.402, 151.405, 151.406, 151.409, ~~[151.423,]~~ 151.424, and 151.425.

SECTION __.28. Section 152.123(b), Tax Code, is amended to read as follows:

(b) The county shall retain the following percentage of the amounts calculated under Subsection (a) during each of the following fiscal years:

- (1) ~~[in fiscal year 2006, 10 percent;~~
- ~~[(2) in fiscal year 2007, 20 percent;~~
- ~~[(3) in fiscal year 2008, 30 percent;~~
- (2) ~~[(4)]~~ in fiscal year 2009, 40 percent;
- (3) ~~[(5)]~~ in fiscal year 2010, 50 percent;
- (4) ~~[(6)]~~ in fiscal year 2011, 60 percent;
- (5) ~~[(7)]~~ in fiscal year 2012, 70 percent;
- (6) ~~[(8)]~~ in fiscal year 2013, 80 percent;
- (7) ~~[(9)]~~ in fiscal year 2014, 90 percent; and
- (8) ~~[(10)]~~ in fiscal year 2015 and succeeding years, 100 percent.

SECTION __.29. Sections 156.151(a) and (b), Tax Code, are amended to read as follows:

(a) Except as provided by Section 156.1515, a [A] person required to collect the tax imposed by this chapter shall pay the comptroller the tax collected during the preceding reporting period and at the same time shall file with the comptroller a report stating:

(1) the total amount of the payments made for rooms at the person's hotel during the preceding reporting period;

(2) the amount of the tax collected by the person during the preceding reporting period; and

(3) other information that the comptroller requires to be in the report.

(b) Except as provided by Subsection (c) and Section 156.1515, each calendar month is a reporting period and the taxes imposed by and collected under this chapter are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month.

SECTION __.30. (a) Subchapter D, Chapter 156, Tax Code, is amended by adding Section 156.1515 to read as follows:

Sec. 156.1515. MONTHLY PREPAYMENTS. (a) A taxpayer required to pay taxes monthly under Section 156.151(b) shall make monthly prepayments of taxes under this chapter based on a reasonable estimate of tax liability. The taxpayer shall make the prepayment not later than the 20th day of the month for which the prepayment is made.

(b) The taxpayer is entitled to the reimbursement authorized by Section 156.153 on the timely prepayment of taxes under this section, except that failure to prepay a reasonable estimate of the tax will result in a loss of the entire amount of the reimbursement.

(c) A prepayment made under this section is not considered to be based on a reasonable estimate of tax liability if the payment is less than:

(1) 90 percent of the total tax ultimately due for the month for which the prepayment is made; or

(2) the amount of tax paid for the same month of the previous year, if the taxpayer paid taxes for that month.

(d) A taxpayer who is required to prepay taxes under this section must file a report when due as provided by Section 156.151. The amount of the prepayment shall be credited against the amount of the taxpayer's actual tax liability as shown on the report.

(e) If there is tax liability owed by the taxpayer in excess of the prepayment credit, the taxpayer shall send to the comptroller the remaining tax liability as provided by Section 156.151(b). The taxpayer is entitled to the reimbursement authorized by Section 156.153 only on the amount of the remaining tax liability.

(f) If the amount prepaid under this section exceeds the amount of the taxpayer's actual tax liability, the excess of the prepayment shall be credited against future tax liability or refunded to the taxpayer as provided by Subchapter C, Chapter 111.

(b) This section applies only to taxes imposed on or after August 1, 2007. Taxes imposed before that date are governed by the law in effect on the date the taxes were imposed, and that law is continued in effect for that purpose. The first prepayment required by Section 156.1515, Tax Code, as added by this section is due not later than August 20, 2007.

SECTION __.31. Section 162.114(c), Tax Code, is amended to read as follows:

(c) The return required by this section shall be accompanied by a payment for the amount of tax reported due after any prepayment of taxes under Section 162.1145.

SECTION __.32. (a) Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1145 to read as follows:

Sec. 162.1145. MONTHLY PREPAYMENTS. (a) A license holder required to pay taxes monthly under Section 162.114(a) shall make monthly prepayments of the taxes under this subchapter based on a reasonable estimate of tax liability. The license holder shall make the prepayment not later than the 25th day of the month for which the prepayment is made.

(b) A supplier or permissive supplier is entitled to the deduction allowed by Section 162.116(b) on the timely prepayment of taxes under this section, except that failure to prepay a reasonable estimate of the tax will result in a loss of the entire amount of the deduction.

(c) A prepayment made under this section is not considered to be based on a reasonable estimate of tax liability if the payment is less than:

(1) 90 percent of the total tax liability ultimately due for the month for which the prepayment is made; or

(2) the amount of tax paid in the same month of the previous year, if the license holder paid taxes for that month.

(d) A license holder who is required to prepay taxes under this section must file a return when due as provided by Section 162.114. The amount of a prepayment shall be credited against the amount of the license holder's actual tax liability as shown on the return.

(e) If there is tax liability owed by the license holder in excess of the prepayment credit, the license holder shall send to the comptroller the remaining tax liability as provided by Section 162.114. A supplier or permissive supplier is entitled to the deduction allowed by Section 162.116(b) only on the amount of the remaining tax liability.

(f) If the amount prepaid under this section exceeds the amount of the license holder's actual tax liability, the excess of the prepayment may be credited against future tax liability within the limitation period provided by Section 162.128.

(b) This section applies only to taxes imposed on or after August 1, 2007. Taxes imposed before that date are governed by the law in effect on the date the taxes were imposed, and that law is continued in effect for that purpose. The first prepayment required by Section 162.1145, Tax Code, as added by this section is due not later than August 25, 2007.

SECTION __.33. Section 162.215(c), Tax Code, is amended to read as follows:

(c) The return required by this section shall be accompanied by a payment for the amount of tax reported due after any prepayment of taxes under Section 162.2155.

SECTION __.34. (a) Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2155 to read as follows:

Sec. 162.2155. MONTHLY PREPAYMENTS. (a) A license holder who is required to pay taxes monthly under Section 162.215(a) shall make monthly prepayments of the taxes under this subchapter based on a reasonable estimate of tax liability. The license holder shall make the prepayment not later than the 25th day of the month for which the prepayment is made.

(b) A supplier or permissive supplier is entitled to the deduction allowed by Section 162.217(b) on the timely payment of tax under this section, except that failure to prepay a reasonable estimate of the tax will result in a loss of the entire amount of the deduction.

(c) A prepayment made under this section is not considered to be based on a reasonable estimate of tax liability if the payment is less than:

(1) 90 percent of the tax ultimately due for the month for which the prepayment is made; or

(2) the amount of tax paid in the same month of the previous year, if the license holder paid taxes for that month.

(d) A license holder who is required to prepay taxes under this section must file a return when due as provided by Section 162.215. The amount of a prepayment shall be credited against the amount of the license holder's actual tax liability as shown on the return.

(e) If there is tax liability owed by the license holder in excess of the prepayment credit, the license holder shall send to the comptroller the remaining tax liability as provided by Section 162.215. A supplier or permissive supplier is entitled to the deduction allowed by Section 162.217(b) only on the amount of the remaining tax liability.

(f) If the amount prepaid under this section exceeds the amount of the license holder's actual tax liability, the excess of the prepayment may be credited against future tax liability within the limitation period provided by Section 162.230.

(b) This section applies only to taxes imposed on or after August 1, 2007. Taxes imposed before that date are governed by the law in effect on the date the taxes were imposed, and that law is continued in effect for that purpose. The first prepayment required by Section 162.2155, Tax Code, as added by this section is due not later than August 25, 2007.

SECTION __.35. Section 171.109(g), Tax Code, as amended by Chapters 801 and 1198, Acts of the 71st Legislature, Regular Session, 1989, is reenacted and amended to read as follows:

(g) All oil and gas exploration and production activities by a corporation which is required to or elects to use generally accepted accounting principles to compute surplus must be reported according to the successful efforts or the full

cost method of accounting. Notwithstanding the method of accounting, the corporation may elect to depreciate the corporation's oil and gas properties using any alternative method of depreciation recognized under generally accepted accounting principles. The useful lives of intangible assets shall be similar to the useful lives of tangible assets.

SECTION __.36. Section 171.110, Tax Code, is amended by adding Subsection (m) to read as follows:

(m) Except as otherwise provided by this section, in computing taxable earned surplus, a corporation is considered to have made an election to use the same methods used in filing its federal income tax return.

SECTION __.37. Section 171.1121(b), Tax Code, is amended to read as follows:

(b) Except as otherwise provided by this section, a corporation shall use the same accounting methods to apportion taxable earned surplus as the corporation used to compute taxable earned surplus [~~in computing reportable federal taxable income~~].

SECTION __.38. Section 171.801(2), Tax Code, is amended to read as follows:

(2) "Qualified capital investment" means tangible personal property, as defined by 26 C.F.R. Section 1.1245-3(b)(1), that is first placed in service in a strategic investment area, or first placed in service in a county with a population of less than 50,000 by a corporation primarily engaged in agricultural processing, and that is described as Section 1245 property by [~~the~~] Section 1245(a), Internal Revenue Code, such as engines, machinery, tools, and implements used in a trade or business or held for investment and subject to an allowance for depreciation, cost recovery under the accelerated cost recovery system, or amortization. The term does not include land [~~real property~~] or buildings and their structural components. Property that is leased under a capitalized lease is considered a "qualified capital investment," but property that is leased under an operating lease is not considered a "qualified capital investment." Property expensed under Section 179, Internal Revenue Code, is not considered a "qualified capital investment."

SECTION __.39. Section 182.082, Tax Code, is amended to read as follows:

Sec. 182.082. TAX PAYMENTS: DUE DATE. Except as provided in Section 182.083 [~~of this code~~], the taxes imposed by this chapter, after any prepayment of taxes under Section 182.0825, are due and payable to the comptroller on the last day of January, April, July, and October of each year.

SECTION __.40. (a) Subchapter E, Chapter 182, Tax Code, is amended by adding Section 182.0825 to read as follows:

Sec. 182.0825. QUARTERLY PREPAYMENTS. (a) A person required to pay taxes under this chapter shall make quarterly prepayments of those taxes based on a reasonable estimate of tax liability. The person shall make the prepayment not later than the last day of the first month of the quarterly period for which the prepayment is made.

(b) A prepayment made under this section is not considered to be based on a reasonable estimate of tax liability if the payment is less than:

(1) 90 percent of the tax ultimately due for the quarterly period for which the prepayment is made; or

(2) the amount of tax paid for the same quarterly period of the previous year, if the person paid taxes for that quarterly period.

(c) A person who is required to prepay taxes under this section must file a report for that quarterly period when due as provided by Section 182.081. The amount of a prepayment shall be credited against the amount of the taxpayer's actual tax liability under Section 182.082 as shown on the report.

(d) If there is tax liability owed by the person in excess of the prepayment credit, the person shall send to the comptroller the remaining tax liability as provided by Section 182.082.

(e) If the amount prepaid under this section exceeds the amount of the person's actual tax liability, the excess of the prepayment shall be credited against future tax liability or refunded to the person as provided by Subchapter C, Chapter 111.

(b) This section applies only to taxes imposed on or after July 1, 2007. Taxes imposed before that date are governed by the law in effect on the date the taxes were imposed, and that law is continued in effect for that purpose. The first prepayment required by Section 182.0825, Tax Code, as added by this section is due not later than July 31, 2007.

SECTION __.41. Section 183.023, Tax Code, is amended to read as follows:

Sec. 183.023. PAYMENT. The tax due for the preceding month, after any prepayment of taxes under Section 183.0235, shall accompany the return and shall be payable to the state. The comptroller shall deposit the revenue in the general revenue fund.

SECTION __.42. (a) Subchapter B, Chapter 183, Tax Code, is amended by adding Section 183.0235 to read as follows:

Sec. 183.0235. MONTHLY PREPAYMENTS. (a) A permittee shall make monthly prepayments of the taxes under this chapter based on a reasonable estimate of tax liability. The permittee shall make the prepayment not later than the 20th day of the month for which the prepayment is made.

(b) A prepayment made under this section is not considered to be based on a reasonable estimate of tax liability if the payment is less than:

(1) 90 percent of the tax ultimately due for the month in which the prepayment is made; or

(2) the amount of tax paid in the same month of the previous year, if the permittee paid taxes for that month.

(c) A permittee must file a return when due as provided by Section 183.022. The amount of a prepayment shall be credited against the amount of the permittee's actual tax liability as shown on the return.

(d) If there is tax liability owed by the permittee in excess of the prepayment credit, the permittee shall send to the comptroller the remaining tax liability as provided by Section 183.022.

(e) If the amount prepaid under this section exceeds the amount of the permittee's actual tax liability, the excess of the prepayment shall be credited against future tax liability or refunded to the permittee as provided by Subchapter C, Chapter 111.

(b) This section applies only to taxes imposed on or after August 1, 2007. Taxes imposed before that date are governed by the law in effect on the date the taxes were imposed, and that law is continued in effect for that purpose. The first prepayment required by Section 183.0235, Tax Code, as added by this section is due not later than August 20, 2007.

SECTION __.43. Section 183.053(b), Tax Code, is amended to read as follows:

(b) The total of bonds, certificates of deposit, letters of credit, or other security determined to be sufficient by the comptroller of a permittee subject to the tax imposed by this chapter shall be in an amount that the comptroller determines to be sufficient to protect the fiscal interests of the state. The comptroller may not set the amount of security at less than \$1,000 or more than the greater of \$100,000 or four times the amount of the permittee's average monthly tax liability [~~\$50,000~~].

SECTION __.44. Section 201.058(b), Tax Code, is amended to read as follows:

(b) Operators increasing production by marketing gas from a well [~~an oil well or lease~~] that has been released into the air for six [~~12~~] months or more pursuant to the rules of the Railroad Commission of Texas [~~commission~~] shall be entitled to an exemption from the tax imposed by this chapter on the production resulting from the marketing of such gas for the life of the well [~~or lease~~].

SECTION __.45. Section 201.102, Tax Code, is amended to read as follows:

Sec. 201.102. CASH SALES. If gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. Payments from a purchaser of gas to a producer for the purpose of reimbursing the producer for taxes due under this chapter are not part of the gross cash receipts [~~unless the reimbursement amount for taxes due under this chapter is separately stated in the sales contract~~].

SECTION __.46. Section 201.201, Tax Code, is amended to read as follows:

Sec. 201.201. TAX DUE. The tax imposed by this chapter for gas produced and saved is due at the office of the comptroller in Austin on the 20th day of the [~~second~~] month following the month of production.

SECTION __.47. Subchapter B, Chapter 202, Tax Code, is amended by adding Section 202.060 to read as follows:

Sec. 202.060. TAX CREDIT FOR ENHANCED EFFICIENCY EQUIPMENT. (a) In this section, "enhanced efficiency equipment" means equipment used in the production of oil that reduces the energy used to produce a barrel of fluid by 10 percent or more when compared to commonly available alternative equipment. The term does not include a motor or downhole pump. Equipment does not qualify as enhanced efficiency equipment unless an institution of higher education approved by the comptroller that is located in this

state and that has an accredited petroleum engineering program evaluated the equipment and determined that the equipment does produce the required energy reduction.

(b) The taxpayer responsible for the payment of severance taxes on the production from a well in this state on which enhanced efficiency equipment is installed and used is entitled to a credit in an amount equal to 20 percent of the cost of the equipment, provided that:

(1) the cumulative total of all severance tax credits authorized by this section may not exceed \$2,000 for any well;

(2) the enhanced efficiency equipment installed in a qualifying well must have been purchased and installed not earlier than September 1, 2005, or later than September 1, 2009;

(3) the taxpayer must file an application with the comptroller for the credit and must demonstrate to the comptroller that the enhanced efficiency equipment has been purchased and installed in the well within the period prescribed by Subdivision (2);

(4) the number of applications the comptroller may approve each state fiscal year may not exceed a number equal to two percent of the producing wells in this state on September 1 of that state fiscal year, as determined by the comptroller; and

(5) the manufacturer of the enhanced efficiency equipment must obtain an evaluation of the product under Subsection (a).

(c) The taxpayer may carry any unused credit forward until the credit is used.

SECTION __.48. Section 202.151, Tax Code, is amended to read as follows:

Sec. 202.151. TAX DUE. The tax imposed by this chapter, after any prepayment of taxes under Section 202.1515, is due at the office of the comptroller on the 25th day of each calendar month for oil produced during the preceding calendar month.

SECTION __.49. (a) Subchapter D, Chapter 202, Tax Code, is amended by adding Section 202.1515 to read as follows:

Sec. 202.1515. MONTHLY PREPAYMENTS. (a) A person required to pay the tax under this chapter shall make monthly prepayments of the taxes under this chapter based on a reasonable estimate of tax liability. The person shall make the prepayment not later than the 25th day of the month for which the prepayment is made.

(b) A prepayment made under this section is not considered to be based on a reasonable estimate of tax liability if the payment is less than:

(1) 90 percent of the tax ultimately due for the month in which the prepayment is made; or

(2) the amount of tax paid in the same month of the previous year, if the person paid taxes for that month.

(c) A person required to pay the tax under this chapter must file a report when due as provided by Subchapter E. The amount of a prepayment shall be credited against the amount of the person's actual tax liability as shown on the report.

(d) If there is tax liability owed by the person in excess of the prepayment credit, the permittee shall send to the comptroller the remaining tax liability as provided by Section 202.151.

(e) If the amount prepaid under this section exceeds the amount of the person's actual tax liability, the excess of the prepayment shall be credited against future tax liability or refunded to the person as provided by Subchapter C, Chapter 111.

(b) This section applies only to taxes imposed on or after August 1, 2007. Taxes imposed before that date are governed by the law in effect on the date the taxes were imposed, and that law is continued in effect for that purpose. The first prepayment required by Section 202.1515, Tax Code, as added by this section is due not later than August 25, 2007.

SECTION __.50. Sections 313.021(1) and (2), Tax Code, are amended to read as follows:

(1) "Qualified investment" means:

(A) tangible personal property, as defined by 26 C.F.R. Section 1.1245-3(b)(1), that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, and is described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;

(B) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including:

(i) integrated systems, fixtures, and piping;

(ii) all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances; and

(iii) production equipment and machinery, moveable cleanroom partitions, and cleanroom lighting; or

(C) a building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by Paragraph (A) or (B).

(2) "Qualified property" means:

(A) land:

(i) that is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code;

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the owner applies for a limitation on appraised value under this subchapter;

(iii) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(iv) on which, in connection with the new building or new improvement described by Subparagraph (ii), the owner of the land, or the owner of a leasehold interest in the land, proposes to:

(a) make a qualified investment in an amount equal to at least the minimum amount required by Section 313.023; and

(b) create at least 25 new jobs;

(B) the new building or other new improvement described by Paragraph (A)(ii); and

(C) tangible personal property that:

(i) is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(ii) except for new equipment described in Section 151.318(q) or (q-1), is first placed in service in the new building or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.

SECTION __.51. Section 321.203, Tax Code, is amended by amending Subsections (b)-(e) and adding Subsection (n) to read as follows:

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales of taxable items [~~tangible personal property~~] are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, a sale of a taxable item [~~tangible personal property~~] by the retailer is consummated at the retailer's place of business:

(1) from which the retailer ships or delivers the item [~~property~~], if the retailer ships or delivers the item [~~property~~] to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item [~~property~~], if the purchaser or lessee takes possession of and removes the item [~~property~~] from a place of business of the retailer.

(d) If neither the possession of a taxable item [~~tangible personal property~~] is taken at nor shipment or delivery of the item [~~property~~] is made from the retailer's place of business in this state, the sale is consummated at:

(1) the retailer's place of business in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates.

(e) A sale of a taxable item [~~tangible personal property~~] is consummated at the location in this state to which the item [~~property~~] is shipped or delivered or at which possession is taken by the customer if transfer of possession of the item [~~property~~] occurs at, or shipment or delivery of the item [~~property~~] originates from, a location in this state other than a place of business of the retailer and if:

- (1) the retailer is an itinerant vendor who has no place of business;
- (2) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order operates is outside this state; or
- (3) the purchaser places the order directly with the retailer's supplier and the item [~~property~~] is shipped or delivered directly to the purchaser by the supplier.

(n) A sale of a service described by Section 151.0047 to remodel, repair, or restore nonresidential real property is consummated at the location of the job site. However, if the job site includes areas in multiple municipalities, the sale is consummated at:

- (1) the retailer's place of business in this state where the order is received; or
- (2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent who took the order operates.

SECTION __.52. Section 321.302, Tax Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) For purposes of Subsection (c)(3), "full amount of the tax due" means the amount of municipal tax to be allocated that can be determined without a comptroller's audit of the person's records.

SECTION __.53. Section 321.503, Tax Code, is amended to read as follows:

Sec. 321.503. STATE'S SHARE. Before sending any money to a municipality under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the municipality during the period for which a distribution is made as the state's charge for its services under this chapter and shall [~~subject to premiums payments under Section 321.501(e),~~] credit the money deducted to the general revenue fund.

SECTION __.54. Section 323.102(c), Tax Code, is amended to read as follows:

(c) A tax imposed under Section 323.105 of this code or Chapter 326 or 383, Local Government Code, takes effect on the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b).

SECTION __.55. Section 323.203, Tax Code, is amended by amending Subsections (b)-(e) and adding Subsection (m) to read as follows:

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales of taxable items [~~tangible personal property~~] are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, a sale of a taxable item [~~tangible personal property~~] by the retailer is consummated at the retailer's place of business:

(1) from which the retailer ships or delivers the item [~~property~~], if the retailer ships or delivers the item [~~property~~] to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item [~~property~~], if the purchaser or lessee takes possession of and removes the item [~~property~~] from a place of business of the retailer.

(d) If neither the possession of a taxable item [~~tangible personal property~~] is taken at nor shipment or delivery of the item [~~property~~] is made from the retailer's place of business in this state, the sale is consummated at:

(1) the retailer's place of business in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates.

(e) A sale of a taxable item [~~tangible personal property~~] is consummated at the location in this state to which the item [~~property~~] is shipped or delivered or at which possession is taken by the customer if transfer of possession of the item [~~property~~] occurs at, or shipment or delivery of the item [~~property~~] originates from, a location in this state other than a place of business of the retailer and if:

(1) the retailer is an itinerant vendor who has no place of business;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order operates is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the item [~~property~~] is shipped or delivered directly to the purchaser by the supplier.

(m) A sale of a service described by Section 151.0047 to remodel, repair, or restore nonresidential real property is consummated at the location of the job site. However, if the job site includes areas in multiple municipalities, the sale is consummated at:

(1) the retailer's place of business in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent who took the order operates.

SECTION __.56. Section 323.503, Tax Code, is amended to read as follows:

Sec. 323.503. STATE'S SHARE. Before sending any money to a county under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the county during the period for which a distribution is made as the state's charge for its services under this chapter and shall [~~subject to premiums payments under Section 323.501(e),~~] credit the money deducted to the general revenue fund.

SECTION __.57. Section 502.1025(b), Transportation Code, is amended to read as follows:

(b) A county tax assessor-collector shall retain under Section 502.102(b) fees based on the following percentage of the amounts calculated under Subsection ~~[subsection]~~ (a) during each of the following fiscal years:

- (1) in fiscal year 2006, 100 ~~[90]~~ percent;
- (2) in fiscal year 2007, 100 ~~[80]~~ percent;
- (3) in fiscal year 2008, 70 percent;
- (4) in fiscal year 2009, 60 percent;
- (5) in fiscal year 2010, 50 percent;
- (6) in fiscal year 2011, 40 percent;
- (7) in fiscal year 2012, 30 percent;
- (8) in fiscal year 2013, 20 percent;
- (9) in fiscal year 2014, 10 percent; and
- (10) in fiscal year 2015 and succeeding years, 0 percent.

SECTION __.58. The heading to Subchapter A, Chapter 16, Utilities Code, is amended to read as follows:

SUBCHAPTER A. ASSESSMENT ON UTILITY GROSS RECEIPTS ~~[PUBLIC UTILITIES]~~

SECTION __.59. The heading to Section 16.001, Utilities Code, is amended to read as follows:

Sec. 16.001. ASSESSMENT ON UTILITY GROSS RECEIPTS ~~[PUBLIC UTILITIES]~~.

SECTION __.60. Sections 16.001(a) and (b), Utilities Code, are amended to read as follows:

(a) To defray the expenses incurred in the administration of this title, an assessment is imposed on each telecommunications utility, electric ~~[public]~~ utility, retail electric provider, and electric cooperative within the jurisdiction of the commission that serves the ultimate consumer, including each interexchange telecommunications carrier.

(b) An assessment under this section is equal to one-sixth of one percent of the telecommunications utility's, electric ~~[public]~~ utility's, retail electric provider's, or electric cooperative's gross receipts from rates charged to the ultimate consumer in this state.

SECTION __.61. Section 16.002(b), Utilities Code, is amended to read as follows:

(b) A telecommunications utility, electric ~~[public]~~ utility, retail electric provider, or electric cooperative may instead make quarterly payments due August 15, November 15, February 15, and May 15.

SECTION __.62. The following sections of the Tax Code are repealed:

- (1) Section 151.103(d);
- (2) Section 151.202(c);
- (3) Section 151.423;
- (4) Section 321.203(l), Tax Code, as added by Chapter 1310, Acts of the 78th Legislature, Regular Session, 2003; and
- (5) Section 323.203(l).

SECTION __.63. The changes in law made by this article to Section 201.102, Tax Code, apply to a refund claim or determination under Chapter 111, Tax Code, made in relation to a tax that is due on or after the effective date of this article. A refund claim or determination that is made in relation to a tax that is due before the effective date of this article is governed by the law in effect on the date the tax is due, and that law is continued in effect for that purpose.

SECTION __.64. The changes in law made by this article to Section 111.009, Tax Code, apply only to a petition for redetermination filed on or after the effective date of this article.

SECTION __.65. The changes in law made by this article to Section 151.006, Tax Code, do not affect any matter that is the subject of litigation pending on the effective date of this article.

SECTION __.66. The change in law made to Section 171.109(g), Tax Code, by this article is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this article.

SECTION __.67. If a change in law made to Section 16.001 or 16.002, Utilities Code, by this article conflicts with another bill enacted by the 79th Legislature, Regular Session, 2005, that amends Section 16.001 or 16.002, including **HB 1779**, that other bill controls.

SECTION __.68. This article takes effect October 1, 2005.

ARTICLE __. SALE OF CIGARETTES AND TOBACCO PRODUCTS

SECTION __.01. Subchapter H, Chapter 161, Health and Safety Code, is amended by adding Section 161.0821 to read as follows:

Sec. 161.0821. PURCHASE OF CIGARETTES OR TOBACCO PRODUCTS BY PERSONS YOUNGER THAN 18 YEARS OF AGE PROHIBITED. (a) A person who is younger than 18 years of age commits an offense if the person purchases or attempts to purchase cigarettes or tobacco products.

(b) For purposes of this section, a person attempts to purchase cigarettes or tobacco products if the person commits an act amounting to more than mere preparation that tends, but fails, to effect the purchase.

(c) An offense under this section is a Class C misdemeanor.

SECTION __.02. (a) Chapter 161, Health and Safety Code, is amended by adding Subchapter U to read as follows:

SUBCHAPTER U. INTERNET OR MAIL-ORDER SALES OF CIGARETTES AND TOBACCO PRODUCTS

Sec. 161.551. DEFINITIONS. (a) In this subchapter:

(1) "Cigarette" has the meaning assigned by Section 154.001, Tax Code.

(2) "Tobacco product" has the meaning assigned by Section 155.001, Tax Code.

(b) In this subchapter, "common carrier," "consumer," "distributor," "importer," "manufacturer," "permit holder," "retailer," and "wholesaler" have the meanings assigned by Section 154.001 or 155.001, Tax Code, as applicable.

Sec. 161.552. APPLICABILITY OF SUBCHAPTER TO INDIAN TRIBES. This subchapter does not apply to cigarette or tobacco product sales by an Indian tribe, as defined by 25 U.S.C. Section 450b(e), or by members of the Indian tribe, to a consumer in this state if the consumer is a verified adult member of that Indian tribe and the buyer and seller are each located on land over which the tribe exercises governmental power and that is owned or occupied by that tribe.

Sec. 161.553. CERTAIN DELIVERIES OF CIGARETTES AND TOBACCO PRODUCTS PROHIBITED. (a) A distributor, importer, manufacturer, retailer, wholesaler, or other person engaged in the business of manufacturing, distributing, or selling cigarettes or tobacco products, including selling cigarettes or tobacco products over the Internet or through mail-order sales, may not sell, offer for sale, deliver, or cause to be delivered any cigarettes or tobacco products to a person in this state except in a face-to-face transaction at the time of purchase unless the cigarettes or tobacco products are in a container or wrapping plainly and visibly marked on the exterior with the words "cigarettes" or "tobacco products" and the sale or delivery is made to one of the following persons for purposes other than personal consumption by the recipient:

(1) a permit holder;

(2) a manufacturer or importer of tobacco products or an export warehouse proprietor with a federal permit under 26 U.S.C. Section 5712 or an operator of a federally designated customs bonded warehouse under 19 U.S.C. Section 1311 or 1555; or

(3) a person who is an officer, employee, or agent of the United States government, this state, or a department, agency, instrumentality, or political subdivision of the United States or this state acting within the scope of the person's official duties.

(b) A person within the jurisdiction of this state's laws, including a common carrier or commercial delivery service, may not knowingly transport cigarettes or tobacco products on behalf of another person for commercial or business purposes for delivery to a person in this state other than a person described by Subsection (a)(1), (2), or (3).

(c) Except as specifically provided by Subsection (b), this section does not apply to a common carrier or other delivery service operating within the scope of its business as a common carrier or delivery service.

Sec. 161.554. PERMIT HOLDER LIST. The comptroller shall compile and make available on the comptroller's Internet website and by other means a list of all persons who hold a permit under Subchapter C, Chapter 154, or Subchapter C, Chapter 155, Tax Code. The comptroller shall periodically update the list of persons holding a permit under those subchapters.

Sec. 161.555. VIOLATOR'S LIST. (a) The department shall maintain a list of persons the department determines have violated Section 161.553(a) or are violating or offering to violate that subsection.

(b) The department shall provide to the United States postal service, each common carrier and commercial delivery service operating in this state, and any other person who delivers cigarettes or tobacco products into or within this state a

copy of this subchapter and the list maintained under Subsection (a). The department shall provide updated copies of the list as the department determines is appropriate.

(c) Before adding a person to the list maintained under Subsection (a), the department shall provide 10 days written notice and an opportunity to be heard to that person. The notice must include the text of this subchapter. The notice may be made by an electronic communication.

(d) The list maintained under Subsection (a) is confidential and not subject to disclosure under Chapter 552, Government Code. The department and each person who receives a copy of the list from the department under this section must maintain the list as confidential and may use the list only to comply with this subchapter.

Sec. 161.556. CARRIER AND DELIVERY SERVICE RESPONSIBILITIES. (a) A person who is a common carrier or commercial delivery service within the jurisdiction of this state's laws who receives a copy of a list maintained under Section 161.555 may not make any deliveries in this state on behalf of a person identified in the list unless:

(1) the person making the delivery knows or affirmatively believes in good faith that the package does not contain cigarettes or tobacco products; or

(2) the delivery is made to a person described by Section 161.553(a)(1), (2), or (3).

(b) A person who delivers cigarettes or tobacco products and receives a copy of a list maintained under Section 161.155:

(1) is not required to:

(A) inspect a package being delivered to determine whether the package contains cigarettes or tobacco products;

(B) determine whether the list is complete, accurate, and up-to-date; or

(C) determine whether any person ordering or requesting a delivery is in compliance with this subchapter;

(2) is not subject to any penalty for:

(A) failing to make a specific delivery on behalf of a person on the list; or

(B) establishing and following a policy of not making deliveries:

(i) in this state on behalf of a person on the list;

(ii) of cigarettes or tobacco products in this state; or

(iii) of cigarettes or tobacco products in this state for any person that is not a distributor, manufacturer, retailer, or wholesaler;

(3) is not subject to criminal penalties for a violation of this subchapter unless the person knowingly violates this subchapter for the specific purpose of:

(A) assisting a person engaged in the business of manufacturing, distributing, or selling cigarettes or tobacco products to violate this subchapter; or

(B) profiting from the violation of this subchapter by another person; and

(4) may collect an additional fee from the person's customers who order deliveries of cigarettes or tobacco products to recover any costs incurred by the person related to complying with this subchapter.

(c) An employee of a common carrier or commercial delivery service or of any other person making deliveries for a carrier or delivery service is not subject to criminal or civil penalties for violating this subchapter unless the employee knowingly violates this subchapter for the specific purpose of assisting a person engaged in the business of manufacturing, distributing, or selling cigarettes or tobacco products in violation of this subchapter.

Sec. 161.557. CIVIL PENALTIES. (a) Except as provided in Section 161.556(c), a person who violates this subchapter is subject to a civil penalty for each violation in an amount:

(1) of at least \$500 and not more than the greater of \$5,000 or five times the value of the cigarettes or tobacco products at issue; and

(2) equal to any profits, gain, gross receipts, or other benefits received from the violation.

(b) A person who violates Section 161.553(a) must reimburse this state and the applicable political subdivisions of this state for all unpaid taxes that would otherwise have been imposed by this state and those political subdivisions on the cigarettes and tobacco products in question, plus interest, and for any other damages incurred by the state or the political subdivision as a result of the violation.

Sec. 161.558. CRIMINAL PENALTIES. Except as provided by Section 161.556(b)(3) and (c), a person who knowingly violates Section 161.553 or 161.556(a) commits an offense. An offense under this subsection is a Class A misdemeanor, except that if it is shown on the trial of the offense that the person has a previous conviction under this subsection, the offense is a state jail felony.

Sec. 161.559. COSTS. (a) The comptroller shall deposit an amount equal to 50 percent of the civil penalties recovered by this state under this subchapter to be appropriated only to the comptroller, department, attorney general, and other state agencies to enforce this subchapter or make related investigations or to enforce other state laws relating to contraband cigarettes and tobacco products, the collection of taxes on cigarettes and tobacco products, and the prohibition of cigarette and tobacco product sales to minors.

(b) In a civil action brought to enforce this subchapter, the state is entitled to recover the costs of investigation, costs of the action, and reasonable attorney's fees, plus interest.

Sec. 161.560. ENFORCEMENT. (a) The attorney general may bring an action in the appropriate court in this state to enforce this subchapter, seek civil penalties and related damages, and equitable relief, or to prevent or restrain actions by a person or a person controlling the person that violate this subchapter or assist or encourage a violation of this subchapter.

(b) On providing at least 15 days notice to the attorney general, enforcement officials of a political subdivision of this state may bring an action in the appropriate court in this state, or join an action being brought by the attorney

general, to seek damages and equitable relief or to prevent or restrain actions by a person or a person controlling the person that violate this subchapter or assist or encourage a violation of this subchapter.

(c) On providing at least 15 days notice to the attorney general, a person who holds a valid permit under 26 U.S.C. Section 5712 may bring an action in the appropriate court in this state, or join an action being brought by the attorney general, to prevent or restrain actions by a person or a person controlling the person that violate this subchapter or assist or encourage a violation of this subchapter.

(d) On receiving notice from another person of the person's intent to bring an action under this subchapter in the appropriate court in this state, the attorney general may choose to join in the other person's action or bring an action by this state in its stead and shall inform the person providing notice of how the attorney general will proceed not later than the 15th day after receiving the notice.

(e) The attorney general shall make public, by posting on the Internet and other means, a list of all actions taken to enforce this subchapter and a list of all persons found to have violated this subchapter, including the persons' names, addresses, and any other information the attorney general believes may be useful to other jurisdictions enforcing laws prohibiting or restricting cigarette or tobacco product sales for personal consumption in which the seller and buyer do not initiate and complete the entire transaction in each other's physical presence.

(b) Effective September 1, 2006, Subchapter R, Chapter 161, Health and Safety Code, as added by Chapter 730, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

(c) Not later than January 1, 2006, the comptroller of public accounts shall post the list of persons who hold permits under Subchapter C, Chapter 154, Tax Code, or Subchapter C, Chapter 155, Tax Code, as required by Section 161.554, Health and Safety Code, as added by this section.

(d) Not later than June 1, 2006, the Department of State Health Services shall create and distribute the list as required by Section 161.555, Health and Safety Code, as added by this section.

(e) Notwithstanding Subchapter U, Chapter 161, Health and Safety Code, as added by this section, a person is not subject to a penalty for a violation of that subchapter before September 1, 2006.

(f) The change in law made by this section applies only to an offense committed on or after September 1, 2006. An offense committed before September 1, 2006, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before September 1, 2006, if any element of the offense was committed before that date.

(g) This section takes effect September 1, 2005, except that Sections 161.557-161.560, Health and Safety Code, as added by this section, take effect September 1, 2006.

SECTION __.03. (a) Article 59.01(2), Code of Criminal Procedure, as amended by Section 2.141, Chapter 198, Section 17, Chapter 257, and Section 3, Chapter 649, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code; or

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(vi) any felony under Chapter 152, Finance Code; ~~or~~

(vii) any felony under Chapter 31, 32, or 37, Penal Code, that involves the state Medicaid program, or any felony under Chapter 36, Human Resources Code;

(viii) a Class A misdemeanor or state jail felony under Subchapter U, Chapter 161, Health and Safety Code; or

(ix) ~~(vii)~~ a Class B misdemeanor under Section 35.60 [35.58], Business & Commerce Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(ix) [(B)(vii)] of this subdivision, or a crime of violence; or

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(ix) [(B)(vii)] of this subdivision, or a crime of violence.

(b) The change in law made by this section applies only to an offense committed on or after September 1, 2006. An offense committed before September 1, 2006, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before September 1, 2006, if any element of the offense was committed before that date.

(c) This section takes effect September 1, 2006.

Amendment No. 27

Representative Ritter offered the following amendment to Amendment No. 26:

Amend the Keffer amendment to **HB 3540** by adding the following SECTION, appropriately numbered, to read as follows:

SECTION _____. Section 21.05, Tax Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) For purposes of this subchapter, a commercial aircraft shall mean an instrumentality of air commerce that is:

(1) primarily engaged in the transportation of cargo, passengers, ~~or~~ equipment, for others for consideration, at least 50% of the time;

(2) economically employed when it is moving from point to point as a means of transportation for a fee, flat rate or expense charge; and

(3) operated or managed by a certified air carrier. A certified air carrier is one engaged in interstate or intrastate commerce under Part 121 or 135 authority of the U.S. Department of Transportation or Federal Aviation Administration.

Amendment No. 27 was adopted.

Amendment No. 26, as amended, was adopted. (R.Cook, Giddings, Homer, and Solomons recorded voting no.) (The vote was reconsidered later today, and Amendment No. 26 was further amended and was adopted.)

Amendment No. 28

Representative Dukes offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding a new article to the bill, appropriately numbered, to read:

ARTICLE _____. LOCAL GASOLINE TAX

SECTION _____.01. Chapter 370, Transportation Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. FINANCIAL PARTICIPATION OF CERTAIN COUNTIES IMPOSING LOCAL GASOLINE TAX

Sec. 370.351. DEFINITIONS. In this subchapter:

(1) "Dealer" has the meaning assigned by Section 162.001, Tax Code.

(2) "Gasoline" has the meaning assigned by Section 162.001, Tax Code.

(3) "Jobber" means a person who:

(A) purchases tax-paid gasoline from a person who holds a license under Chapter 162, Tax Code; and

(B) makes a sale with the tax included to a person who maintains storage facilities for gasoline and uses all or part of the stored gasoline to operate a motor vehicle.

(4) "Motor vehicle" has the meaning assigned by Section 162.001, Tax Code.

(5) "Net gallon" has the meaning assigned by Section 162.001, Tax Code.

(6) "Public highway" has the meaning assigned by Section 162.001, Tax Code.

(7) "Sale" has the meaning assigned by Section 162.001, Tax Code.

Sec. 370.352. TAX ON SALE OF GASOLINE AUTHORIZED. (a) A county, by order of the commissioners court, may impose a tax on the sale of gasoline sold in the county to propel a motor vehicle on the public highways of this state if:

(1) the county is included in an authority or is adjacent to such a county;

(2) the county is located in the boundaries of a metropolitan planning area that is served by a metropolitan planning organization; and

(3) imposition of the tax is approved at an election called for that purpose and held in each county located in that metropolitan planning area.

(b) The counties located in a metropolitan planning area described by Subsection (a)(2) may hold the election to authorize the imposition of the tax on the same uniform election dates or on different uniform election dates. If the counties hold the elections on different uniform election dates, a county included in that metropolitan planning area may not impose the tax until the imposition of the tax has been approved in each county.

Sec. 370.353. RATE OF TAX. (a) The tax authorized by this subchapter may be imposed in increments of one cent for each net gallon of gasoline sold in the county to propel a motor vehicle on the public highways of this state, with a minimum rate of three cents for each net gallon and a maximum rate of 10 cents for each net gallon.

(b) If the voters of the counties located in a metropolitan planning area described by Section 370.352(a)(3) authorize the imposition of the tax at different rates, each county shall impose the tax at the lowest authorized rate.

Sec. 370.354. ADOPTION ELECTION PROCEDURE. (a) An election to adopt the tax authorized by this subchapter is called by an order of the commissioners court.

(b) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local tax on the sale of gasoline in (insert name of county) at the maximum rate of (insert proposed rate) cents per gallon."

Sec. 370.355. COMPUTATION OF TAX. (a) A person, including a dealer or jobber, who makes a sale of gasoline in a county authorized to impose the tax to a person who uses the gasoline to propel a motor vehicle on the public highways of this state shall collect the tax authorized by this subchapter for the benefit of the county.

(b) The seller shall add the amount of the tax authorized by this subchapter to the selling price of gasoline, and the tax is a part of the gasoline price, is a debt owed to the seller, and is recoverable at law in the same manner as the gasoline fuel charge.

(c) The tax authorized by this subchapter is in addition to the tax imposed by Chapter 162, Tax Code.

Sec. 370.356. EXEMPTIONS APPLICABLE. The exemptions provided by Section 162.104, Tax Code, apply to the tax authorized by this subchapter.

Sec. 370.357. EFFECTIVE DATE OF TAX. After the imposition of the tax has been approved in each county located in a metropolitan planning area described by Section 370.352(a)(2), the commissioners court of each county shall issue a concurrent order prescribing the date on which the adoption of the tax will take effect in those counties.

Sec. 370.358. COLLECTION AND ENFORCEMENT OF TAX. (a) A person, including a dealer or jobber, required to collect the tax authorized by this subchapter shall report and send the taxes to the county as provided by the county.

(b) The county may prescribe monetary penalties, including interest charges, for failure to keep records required by this subchapter, to report when required, or to pay the tax when due.

(c) The county may permit a person who is required to collect the tax authorized by this subchapter to retain a percentage of the amount collected and required to be reported as reimbursement to the person for the costs of collecting the tax. The county may provide that the person may retain the amount only if the person pays the tax and files reports as required by the county.

(d) The county attorney may bring suit against a person who violates this subchapter.

Sec. 370.359. REFUND. (a) A person who has paid the tax authorized by this subchapter on gasoline used by the person for a purpose other than to propel a motor vehicle on the public highways of this state or for a use exempted under Section 370.356 may file a claim for a refund.

(b) The county shall prescribe the procedures a person must use to obtain a refund under this section.

Sec. 370.360. REQUIRED PERMIT. The county may require a dealer, jobber, or other person required to collect, report, and pay the tax authorized by this subchapter to obtain a permit from the county.

Sec. 370.361. TRANSFER TO AUTHORITY. (a) Not later than the last day of the first month following each calendar quarter, the county treasurer shall send to the authority the taxes collected during that calendar quarter after payment of all refunds allowed by law and expenses of collection.

(b) Net tax revenue received by an authority under this subchapter shall be accounted for separately and may not be commingled with other authority revenue.

Sec. 370.362. USE OF TAX PROCEEDS. An authority may use net tax revenue received under this subchapter only to:

(1) reduce the number of lane miles included in a proposed transportation project or a part or section of a proposed transportation project for which the authority intends to impose a toll for use according to the authority's most recently adopted toll plan;

(2) reduce the amount of the toll charged for use of a transportation project or a part or section of a transportation project in use at the time the tax is imposed under this subchapter;

(3) waive the toll charged for use of a transportation project or for a part or section of a transportation project by one or more classes of vehicles prescribed by the authority, such as public school buses and mass transit vehicles; and

(4) finance any costs associated with the implementation, operation, or maintenance of a passenger rail transportation project.

Amendment No. 28 was adopted. (The vote was reconsidered later today, and Amendment No. 28 was amended and was adopted by Record No. 489.)

Amendment No. 29

Representative Isett offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered sections and renumbering subsequent sections accordingly:

SECTION __. Section 151.307(b), Tax Code, is amended to read as follows:

(b) When an exemption is claimed because tangible personal property is exported beyond the territorial limits of the United States, proof of export may be shown only by:

(1) a bill of lading issued by a licensed and certificated carrier of persons or property showing the seller as consignor, the buyer as consignee, and a delivery point outside the territorial limits of the United States;

(2) ~~documentation:~~

~~[(A) provided by a United States Customs Broker licensed by the comptroller under Section 151.157;~~

~~[(B) certifying that delivery was made to a point outside the territorial limits of the United States;~~

~~[(C) that includes, in addition to any other information required by the comptroller, a statement signed by the person claiming the exemption that states that "Providing false information to a customs broker is a Class B misdemeanor."; and~~

~~[(D) to which a stamp issued under Section 151.158 is affixed in the manner required by that section or Section 151.157;~~

~~[(3)] import documents from the country of destination showing that the property was imported into a country other than the United States;~~

(3) ~~[(4)]~~ an original airway, ocean, or railroad bill of lading and a forwarder's receipt if an air, ocean, or rail freight forwarder takes possession of the property; or

(4) ~~[(5)]~~ any other manner provided by the comptroller for an enterprise authorized to make tax-free purchases under Section 151.156.

SECTION __. Section 151.406(a), Tax Code, is amended to read as follows:

(a) Except as provided by Section 151.407, a tax report required by this chapter must:

(1) for sales tax purposes, show the amount of the total receipts of a seller for the reporting period;

(2) for use tax purposes, show the amount of the total receipts from sales by a retailer of taxable items during the reporting period for storage, use, or consumption in this state;

(3) show the amount of the total sales prices of taxable items that are subject to the use tax during the reporting period and that were acquired for storage, use, or consumption in this state by a purchaser who did not pay the tax to a retailer;

(4) show the amount of the taxes due for the reporting period; and

(5) ~~[show the amount of sales tax refunded for items exported beyond the territorial limits of the United States after receiving documentation under Section 151.307(b)(2); and~~

~~[(6)]~~ include other information that the comptroller determines to be necessary for the proper administration of this chapter.

SECTION __. (a) The following provisions of the Tax Code are repealed:

- (1) Section 151.157;
- (2) Section 151.1575;
- (3) Section 151.158;
- (4) Section 151.159;
- (5) Sections 151.307(c), (d), and (e);
- (6) Section 151.712; and
- (7) Section 151.713.

(b) The repeal of Sections 151.157, 151.1575, 151.158, 151.159, 151.307(c), (d), and (e), 151.712, and 151.713, Tax Code, and the amendment by this Act of Sections 151.307(b) and 151.406(a), Tax Code, take effect October 1, 2005, and do not affect taxes imposed before that date. Taxes imposed before October 1, 2005, are governed by the law in effect when the taxes were imposed, and that law is continued in effect for purposes of the liability for and collection of those taxes.

Amendment No. 29 was adopted. (Chavez, Escobar, Gonzales, Guillen, P. Moreno, Raymond, and Rodriguez recorded voting no.) (The vote was reconsidered later today, and Amendment No. 29 was withdrawn.)

Amendment No. 28 - Vote Reconsidered

Representative P. King moved to reconsider the vote by which Amendment No. 28 was adopted.

The motion to reconsider prevailed.

Amendment No. 28 - Point of Order

Representative Chisum raised a point of order against further consideration of Amendment No. 28 under Article III, Section 30 of the Texas Constitution and Rule 11, Section 3 of the House Rules on the grounds that the amendment changes the original purpose of the bill.

The point of order was withdrawn.

Amendment No. 30

Representatives Keel and Rose offered the following amendment to Amendment No. 28:

Amend Amendment No. 28 by Dukes to **CSHB 3540** as follows:

- (1) On page 4, line 28, strike "may" and substitute "must".
- (2) On page 5, line 6, following the underlined semicolon, insert "and".
- (3) On page 5, line 10, strike "; and" and substitute an underlined period.
- (4) On page 5, strike lines 11-13.

AMENDMENT NO. 30 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE PICKETT: First off, I want to state that I support Dawnna's amendment and I support Chairman Krusee, I kind of like this idea. Currently in what's being proposed, the way Dawnna has laid this out, a metropolitan planning organization that has a regional mobility authority could do this. El Paso has an MPO, but doesn't have an RMA. We might consider having an RMA to take advantage of this option that Dawnna is bringing us, but if you put in "must" currently we don't have a toll project that we've absolutely approved and are ready to do. But we might be interested in this, so—

REPRESENTATIVE KEEL: It won't affect the substance of the bill for this reason. The bill currently reads an authority may use net tax revenue received under this subsection only to do the following things. It lists toll reductions, but it also has finance any cost associated with the implementation, operation, or maintenance of a passenger rail transportation project—

PICKETT: Terry, let me ask it this way. I think it would probably would suffice. Your interpretation of your amendment to the amendment would mean that if tolls exist, then you would use it towards the tolls, but if tolls do not exist, you could still use this for your transportation accrual?

KEEL: Exactly.

REMARKS ORDERED PRINTED

Representative Pickett moved to print remarks between Representative Keel and Representative Pickett.

The motion prevailed.

Amendment No. 30 was adopted.

(Straus in the chair)

Amendment No. 31

Representative Y. Davis offered the following amendment to Amendment No. 28:

Amend the Dukes amendment on page 2, lines 2-3 by striking "or is adjacent to such a county" and renumbering subsequent subdivisions accordingly.

(Speaker in the chair)

Amendment No. 31 was adopted.

A record vote was requested.

Amendment No. 28, as amended, was adopted by (Record 489): 91 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Anchia; Anderson; Bailey; Berman; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Coleman; Cook, R.; Crabb; Dawson; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; Escobar; Farrar; Flores; Flynn; Frost; Gallego; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamric; Hartnett; Hill; Hochberg; Hopson; Hughes; Hunter; Hupp; Isett; Keel; Keffer, B.; King, P.; Krusee; Kuempel; Leibowitz; Luna; Martinez Fischer; McClendon; McReynolds; Merritt; Miller; Moreno, J.; Moreno, P.; Mowery; Naishtat; Noriega, M.; Oliveira; Orr; Otto; Paxton; Pickett; Pitts; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solis; Strama; Straus; Taylor; Truitt; Uresti; Veasey; Villarreal; Vo; West; Wong; Zedler.

Nays — Alonzo; Baxter; Blake; Bohac; Chavez; Chisum; Cook, B.; Corte; Crownover; Davis, J.; Davis, Y.; Denny; Deshotel; Farabee; Gattis; Geren; Giddings; Hamilton; Hardcastle; Harper-Brown; Hegar; Herrero; Hilderbran; Hodge; Homer; Hope; Jackson; Jones, D.; Jones, J.; Keffer, J.; King, T.; Kolkhorst; Laney; Laubenberg; Madden; McCall; Menendez; Morrison; Nixon; Peña; Phillips; Puente; Reyna; Riddle; Seaman; Smithee; Swinford; Talton; Thompson; Turner; Van Arsdale.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez.

Absent — Castro; Edwards; Howard; Olivo; Solomons; Woolley.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 489. I intended to vote no.

Anderson

I was shown voting yes on Record No. 489. I intended to vote no.

Callegari

I was shown voting yes on Record No. 489. I intended to vote no.

R. Cook

I was shown voting yes on Record No. 489. I intended to vote no.

Crabb

I was shown voting yes on Record No. 489. I intended to vote no.

Farrar

I was shown voting yes on Record No. 489. I intended to vote no.

Hopson

When Record No. 489 was taken, I was in the house but away from my desk. I would have voted no.

Howard

I was shown voting yes on Record No. 489. I intended to vote no.

B. Keffer

I was shown voting yes on Record No. 489. I intended to vote no.

Leibowitz

I was shown voting yes on Record No. 489. I intended to vote no.

Miller

I was shown voting yes on Record No. 489. I intended to vote no.

J. Moreno

I was shown voting yes on Record No. 489. I intended to vote no.

Paxton

I was shown voting yes on Record No. 489. I intended to vote no.

Raymond

Amendment No. 32

Representative T. Smith offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered ARTICLE to the bill and renumbering the subsequent ARTICLES accordingly:

ARTICLE __. AUDITS OF STATE AGENCY EXPENDITURES TO
RECOVER OVERPAYMENTS AND LOST DISCOUNTS

SECTION __.01. Subtitle C, Title 10, Government Code, is amended by adding Chapter 2115 to read as follows:

CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY
OVERPAYMENTS

Sec. 2115.001. DEFINITIONS. In this chapter:

(1) "Overpayment" includes a duplicate payment made to a vendor for a single invoice and a payment made to a vendor:

(A) when an available discount from the vendor was not applied;

(B) for a late payment penalty that was improperly applied by the

vendor;

(C) for shipping costs that were computed incorrectly or incorrectly included in an invoice;

(D) for state sales tax; or

(E) for a good or service the vendor did not provide.

(2) "State agency" means a department, commission, board, office, or other agency, including a university system or an institution of higher education other than a public junior college, that:

(A) is in the executive branch of state government;

(B) is created by statute; and

(C) does not have statutory geographical boundaries limited to a part of the state.

Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR CERTAIN OVERPAYMENTS. (a) The comptroller shall contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. The audits must be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations.

(b) A contract under this section:

(1) may provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount recovered because of the consultant's audit activities or recommendations as a fee for services;

(2) may permit or require the consultant to pursue a judicial action in a court inside or outside this state to recover an overpaid amount; and

(3) to allow time for the performance of existing state payment auditing procedures, may not allow a recovery audit of a payment during the 180-day period after the date the payment was made.

(c) The comptroller or a state agency whose payments are being audited may provide a person acting under a contract authorized by this section with any confidential information in the custody of the comptroller or state agency that is necessary for the performance of the audit or the recovery of an overpayment, to the extent the comptroller and state agency are not prohibited from sharing the information under an agreement with another state or the federal government. A person acting under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with the contract that apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency. A person acting under a contract authorized by this section or an employee or agent of the person who discloses confidential information in violation of a prohibition made applicable to the person under this subsection is subject to the same sanctions and penalties that would apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency for that disclosure.

Sec. 2115.003. STATE AGENCIES SUBJECT TO MANDATORY RECOVERY AUDITS. (a) The comptroller shall require that recovery audits be performed on the payments to vendors made by each state agency that has total expenditures during a state fiscal biennium in an amount that exceeds \$100 million. Each state agency described by this subsection shall provide the recovery audit consultant with all information necessary for the audit.

(b) The comptroller may exempt from the mandatory recovery audit process a state agency that has a low proportion of its expenditures made to vendors, according to criteria the comptroller adopts by rule after consideration of the likely costs and benefits of performing recovery audits for agencies that make relatively few or small payments to vendors.

Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) A state agency shall pay, from recovered money appropriated for the purpose, the recovery audit consultant responsible for obtaining for the agency a reimbursement from a vendor.

(b) A state agency shall expend or return to the federal government any federal money that is recovered through a recovery audit conducted under this chapter. The state agency shall expend or return the federal money in accordance with the rules of the federal program through which the agency received the federal money.

Sec. 2115.005. FORWARDING REPORTS. (a) The comptroller shall provide copies, including electronic form copies, of any reports received from a consultant contracting under Section 2115.002 to:

- (1) the governor;
- (2) the state auditor's office; and
- (3) the Legislative Budget Board.

(b) The comptroller shall provide the copies required by Subsection (a) not later than the seventh day after the date the comptroller receives the consultant's report.

(c) Not later than January 1 of each odd-numbered year, the comptroller shall issue a report to the legislature summarizing the contents of all reports received under this chapter during the state fiscal biennium ending August 31 of the previous year.

SECTION __.02. The comptroller shall adopt rules under Chapter 2115, Government Code, as added by this article, in a timely manner so that the comptroller may begin contracting with a consultant under that chapter not later than January 1, 2006.

Amendment No. 32 was adopted.

Amendment No. 33

Representative Phillips offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered article and renumbering the subsequent articles of the substitute accordingly:

ARTICLE __. MARKETING AND SALE OF CERTAIN LICENSE PLATES

SECTION __.01. Section 504.851, Transportation Code, is amended by amending Subsections (a), (b), (c), (e), (f), (g), and (h) and adding Subsections (g-1) and (k) to read as follows:

(a) The ~~[commission may authorize the]~~ department shall ~~[to]~~ enter into a contract with the private vendor whose proposal is most advantageous to the state, as determined from competitive sealed proposals that satisfy the requirements of this section, for the marketing and sale of:

(1) personalized ~~[prestige]~~ license plates authorized by Section 504.101; or

(2) with the agreement of the private vendor, other specialty ~~[specialized]~~ license plates authorized by this subchapter.

(b) Instead of the fees established by Section 504.101(c), ~~[if the commission authorizes the department to contract with a private vendor under Subsection (a)(1) for the marketing and sale of personalized prestige license plates,]~~ the commission by rule shall establish fees for the issuance or renewal of personalized ~~[prestige]~~ license plates that are marketed and sold by the private vendor. Fees must be reasonable and not less than the greater of:

(1) the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs; or

(2) the amount established by Section 504.101(c).

(c) ~~The [If the commission authorizes the department to contract with a private vendor under Subsection (a)(2) for the marketing and sale of other specialized license plates authorized by this subchapter, including specialized license plates that may be personalized, the]~~ commission by rule shall establish the fees for the issuance or renewal of souvenir license plates, specialty [specialized] license plates, or souvenir or specialty license plates that are personalized that are marketed and sold by the private vendor. Fees must be reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which specialty [the specialized] license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of specialty [the specialized] license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized license plates for that vehicle.

(e) ~~The portion of a [A] contract with a private vendor regarding the marketing and sale of personalized license plates [under Subsection (a)(1)] is payable only from amounts derived from the collection of the fee established under Subsection (b). The portion of a [A] contract with a private vendor regarding the marketing and sale of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized under Section 504.102 [under Subsection (a)(2)] is payable only from amounts derived from the collection of the fee established under Subsection (c).~~

(f) The department may approve [create] new design and color combinations for personalized ~~[prestige]~~ license plates that are marketed and [or] sold by a private vendor under a contract entered into with the private vendor [under Subsection (a) (1)]. Each approved license plate design and color combination remains the property of the department.

(g) The department may approve ~~create~~ new design and color combinations for specialty ~~specialized~~ license plates authorized by this chapter, including specialty ~~specialized~~ license plates that may be personalized, that are marketed and ~~or~~ sold by a private vendor under a contract entered into with the private vendor ~~under Subsection (a)(2)~~. Each approved license plate design and color combination remains the property of the department. Except as otherwise provided by this chapter, this ~~This~~ subsection does not authorize:

(1) the department to approve a design or color combination for a specialty ~~specialized~~ license plate that is inconsistent with the design or color combination specified for the license plate by the section of this chapter ~~subchapter~~ that authorizes the issuance of the specialty ~~specialized~~ license plate; or

(2) the private vendor to market and ~~or~~ sell a specialty ~~specialized~~ license plate with a design or color combination that is inconsistent with the design or color combination specified by that section.

(g-1) The department may not:

(1) publish a proposed design or color combination for a specialty license plate for public comment in the Texas Register or otherwise, except on the department's website for a period not to exceed 10 days; or

(2) restrict the background color, color combinations, or color alphanumeric license plate numbers of a specialty license plate, except as determined by the Department of Public Safety as necessary for law enforcement purposes.

(h) Subject to the limitations provided by Subsections (g) and (g-1) ~~In connection with a license plate that is marketed or sold by a private vendor under contract~~, the department may cancel a license plate or require the discontinuation of a license plate design or color combination that is marketed and sold by a private vendor under contract at any time if the department determines that the cancellation or discontinuation is in the best interest of this state or the motoring public.

(k) The department shall certify to the comptroller the estimate, with a detailed explanation of the basis on which the estimate is calculated, of all reasonable costs to the department associated with the evaluation of competitive sealed proposals received by the department under this section and associated with the implementation and enforcement of a contract entered into under this section, including direct, indirect, and administrative costs for the issuance or renewal of personalized license plates or specialty license plates.

SECTION. __.02. Subchapter J, Chapter 504, Transportation Code, is amended by adding Section 504.852 to read as follows:

Sec. 504.852. CONTRACT LIMITATIONS. (a) In a contract under Section 504.851, the department may not:

(1) require a private vendor to meet a minimum sales volume or pay a security or other deposit in an amount greater than \$100,000 to secure the performance of the vendor;

(2) unreasonably disapprove or limit any aspect of a private vendor's marketing and sales plan;

(3) unreasonably interfere with the selection, assignment, or management by the private vendor of the private vendor's employees, agents, or subcontractors; or

(4) require a private vendor to market and sell souvenir license plates, specialty license plates, or souvenir or specialty license plates personalized under Section 504.102.

(b) If a private vendor contracts to market and sell souvenir license plates, specialty license plates, or souvenir or specialty license plates personalized under Section 504.102, the initial term of the contract shall be for at least five years from the effective date of the contract. The contract shall contain, at the option of either the department or the private vendor, a second term at least equal in length to the initial term of the contract.

(c) Notwithstanding Subsection (b), a private vendor may not market and sell souvenir license plates, specialty license plates, or souvenir or specialty license plates personalized under Section 504.102 that compete directly for sales with another specialty license plate issued under this chapter unless the department and the sponsoring agency or organization of the other license plate approve.

AMENDMENT NO. 33 - DEBATE

REPRESENTATIVE THOMPSON: Does this amendment contain anything in it that would allow cities to levy civil penalties for running traffic lights?

REPRESENTATIVE PHILLIPS: No ma'am.

THOMPSON: Does it involve any kind of civil penalties that involve cameras that may take pictures of the license plates of persons running red traffic lights?

PHILLIPS: No ma'am. I have never brought that bill to this body before.

THOMPSON: Does it involve any kind of penalties that would allow cities to levy any kind of fees, fines, etc. on any kind of moving traffic violations?

PHILLIPS: No ma'am.

THOMPSON: Does it involve any kind of fees, fines, etc. to allow cities to levy any kinds of fines, fees, penalties on any kind of other things?

PHILLIPS: No ma'am.

THOMPSON: It only covers license plates?

PHILLIPS: This is specialty license plates—volunteer with TxDOT as we traditionally do it—as we passed last session.

REMARKS ORDERED PRINTED

Representative Thompson moved to print remarks between Representative Phillips and Representative Thompson.

The motion prevailed.

Amendment No. 33 was adopted.

Amendment No. 34

Representative Morrison offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** (House committee printing) by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES accordingly:

ARTICLE _____. TREATMENT OF CERTAIN FEES RECEIVED BY
INSTITUTIONS OF HIGHER EDUCATION

SECTION _____.01. Section 51.009(c), Education Code, is amended to read as follows:

(c) Each of the following shall be accounted for as educational and general funds:

(1) net tuition, special course fees charged under Sections 54.051(e) and (1), Education Code, lab fees, student teaching fees, [~~hospital and clinic fees,~~] organized activity fees, proceeds from the sale of educational and general equipment, and indirect cost recovery fees; and

(2) hospital and clinic fees received by a state-owned clinical care facility that is operated using general revenue fund appropriations for patient care.

SECTION _____.02. Section 51.009(c), Education Code, as amended by this article, applies to fees collected on or after the effective date of this Act. A fee collected before that date is governed by the law in effect when the fee is collected, and that law is continued in effect for that purpose.

Amendment No. 34 was adopted.

Amendment No. 35

Representatives Keel, Chavez, and Flores offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE _____. AUTHORIZATION OF CERTAIN NONPROFIT
ORGANIZATIONS TO CONDUCT BINGO

SECTION _____.01. Section 2001.002(11), Occupations Code, is amended to read as follows:

(11) "Fraternal organization" means:

(A) a nonprofit organization organized to perform and engaged primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions that meet the other requirements of this chapter; [~~or~~]

(B) a nonprofit National Historical District Association representing the owners and lessees of a majority of the real property located in a National Historical District designated for not less than five years by the National Register of Historic Places, Heritage Conservation and Recreation Service of the United States Department of the Interior, if the association's net proceeds are used for restoration, construction, maintenance, and security in the district. The term

"fraternal organization" does not include an organization whose members are predominately veterans or dependents of veterans of the armed services of the United States; or

(C) a nonprofit organization that:

(i) is organized under tribal law by a federally recognized Indian tribe that is not subject to the Indian Gaming Regulatory Act (18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section 2701 et seq.) and that exercises tribal authority over a reservation, as defined by 25 U.S.C. Section 1300g, that is located in a county on the international border with Mexico; and

(ii) is organized to perform and is engaged primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions.

SECTION ____ .02. Subchapter C, Chapter 2001, Occupations Code, is amended by adding Section 2001.1015 to read as follows:

Sec. 2001.1015. CERTAIN TRIBAL ORGANIZATIONS EXEMPT FROM REGULATORY JURISDICTION AND LICENSE REQUIREMENTS. (a) A nonprofit organization in existence for at least 180 days that qualifies as a fraternal organization under Section 2001.002(11)(C) may conduct bingo on the reservation of the Indian tribe under whose tribal law the organization is organized on adoption by the tribe of rules governing the conduct of bingo by the organization that conform to the substantive provisions of this chapter and of Sections 47(b) and (c), Article III, Texas Constitution.

(b) In accordance with Section 107(b), Ysleta del Sur Pueblo and Alabama-Coushatta Indian Tribes of Texas Restoration Act (25 U.S.C. Section 1300g-6), an organization described by Subsection (a) may conduct bingo activities in accordance with the tribe's rules adopted under Subsection (a) without submitting to the regulatory jurisdiction, including licensing requirements, of this state.

(Dukes in the chair)

Amendment No. 35 was withdrawn.

Amendment No. 36

Representative Smithee offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ . PREMIUM TAX CREDITS FOR CERTAIN INSURERS

SECTION ____ .01. Section 19, Article 21.49, Insurance Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) An insurer may not claim a credit under Subsection (b) of this section until the insurer provides to the comptroller a certificate from the commissioner stating that:

(1) the insurer has fully complied for the preceding five years with the rate standards of Article 1.02 of this code and Section 4, Article 5.13-2 of this code, to the extent applicable, with respect to rates for homeowners insurance; or

(2) the insurer has fully refunded all premiums collected in excess of those permitted under Article 1.02 of this code or Section 4, Article 5.13-2 of this code, plus interest on the excess premiums as described by Subsections (d) and (e) of this section.

(d) An insurer shall pay interest on excess premiums as described by Subsection (c)(2) of this section at a rate that is equal to the sum of:

(1) the prime rate, as published in The Wall Street Journal on the first day of each calendar year that is not a Saturday, Sunday, or a legal holiday; and

(2) six percent.

(e) Interest on excess premiums described by Subsection (c)(2) of this section accrues beginning on the date the insurer first charged the rate that was not permitted under Article 1.02 of this code or Section 4, Article 5.13-2 of this code, as determined by the commissioner, until the date the insurer refunds the excess premiums.

Amendment No. 36 was adopted.

Amendment No. 37

Representative Farabee offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered SECTIONS to ARTICLE 4 and renumbering subsequent SECTIONS accordingly:

SECTION 4.____. Section 26.35731(a), Water Code, is amended to read as follows:

(a) ~~The [Except as provided by Subsection (b), the]~~ commission shall consider and process a claim by an eligible owner or operator for reimbursement from the petroleum storage tank remediation account in the order in which it is received. The commission shall consider and process all claims by eligible owners and operators for reimbursement from the account that were received before September 1, 1995, before the commission considers a claim received after that date.

SECTION 4.____. Section 26.35731(b), Water Code, is repealed.

Amendment No. 37 was adopted.

Amendment No. 38

Representative Howard offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** as follows:

(1) On page 19, strike lines 19 through 21, insert the following:

"report to the legislature on the return on investment for advertising dollars spent by the Texas Lottery Commission during state fiscal year 2003 and fiscal year 2004."

Amendment No. 38 was adopted.

(Speaker pro tempore in the chair)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

CSHB 3540 - (consideration continued)

(Hegar in the chair)

Amendment No. 39

Representatives Keel, Chavez, and Flores offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ . AUTHORIZATION OF CERTAIN NONPROFIT ORGANIZATIONS TO CONDUCT BINGO

SECTION ____ .01. Section 2001.002(11), Occupations Code, is amended to read as follows:

(11) "Fraternal organization" means:

(A) a nonprofit organization organized to perform and engaged primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions that meet the other requirements of this chapter; ~~[or]~~

(B) a nonprofit National Historical District Association representing the owners and lessees of a majority of the real property located in a National Historical District designated for not less than five years by the National Register of Historic Places, Heritage Conservation and Recreation Service of the United States Department of the Interior, if the association's net proceeds are used for restoration, construction, maintenance, and security in the district. The term "fraternal organization" does not include an organization whose members are predominately veterans or dependents of veterans of the armed services of the United States; or

(C) a nonprofit organization that:

(i) is organized under tribal law by a federally recognized Indian tribe that is not subject to the Indian Gaming Regulatory Act (18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section 2701 et seq.) and that exercises tribal authority over a reservation, as defined by 25 U.S.C. Section 1300g, that is located in a county on the international border with Mexico; and

(ii) is organized to perform and is engaged primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions.

SECTION ____ .02. Subchapter C, Chapter 2001, Occupations Code, is amended by adding Section 2001.1015 to read as follows:

Sec. 2001.1015. CERTAIN TRIBAL ORGANIZATIONS EXEMPT FROM REGULATORY JURISDICTION AND LICENSE REQUIREMENTS. (a) A nonprofit organization in existence for at least 180 days that qualifies as a fraternal organization under Section 2001.002(11)(C) may conduct bingo on the reservation of the Indian tribe under whose tribal law the organization is

organized on adoption by the tribe of rules governing the conduct of bingo by the organization that conform to the substantive provisions of this chapter and of Sections 47(b) and (c), Article III, Texas Constitution.

(b) In accordance with Section 107(b), Ysleta del Sur Pueblo and Alabama-Coushatta Indian Tribes of Texas Restoration Act (25 U.S.C. Section 1300g-6), an organization described by Subsection (a) may conduct bingo activities in accordance with the tribe's rules adopted under Subsection (a) without submitting to the regulatory jurisdiction, including licensing requirements, of this state.

Amendment No. 40

Representative Chavez offered the following amendment to Amendment No. 39:

Amend Amendment No. 39 by Chavez on page 2, after the period on line 25, by inserting the following:

(c) A nonprofit organization described by Subsection (b) may not conduct bingo under this section unless the organization transfers to the state on a monthly basis an amount equal to five percent of the gross receipts from bingo in a manner determined by the comptroller.

Amendment No. 40 was adopted.

Amendment No. 39, as amended, was adopted. (B. Brown, Crownover, Harper-Brown, Hughes, Paxton, Phillips, Rose, Solomons, and Taylor recorded voting no.)

Amendment No. 41

Representatives Uresti and Solis offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered ARTICLE to the bill and renumbering the subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE __. USE OF BIRTH CERTIFICATE FEE TO FUND CHILD ABUSE PREVENTION PROGRAM

SECTION __.01. Contingent on **SB 6**, Acts of the 79th Legislature, Regular Session, 2005 being enacted and becoming law, Section 191.0045, Health and Safety Code, is amended by adding in Subsections (i) and (j) to read as follows:

(i) In addition to other fees collected by the bureau of vital statistics under this section, the bureau shall collect an additional \$5 fee for each of the following:

- (1) issuing a certified copy of a certificate of birth;
- (2) issuing a wallet-sized certification of birth; and
- (3) conducting a search for a certificate of birth.

(j) The fees collected under Subsection (i) may only be appropriated for the purpose of funding the Child Abuse Prevention Pilot Project established under Chapter 267, Family Code.

(Speaker in the chair)

Representative Howard moved to table Amendment No. 41.

A record vote was requested.

The motion to table was lost by (Record 490): 47 Yeas, 94 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Blake; Callegari; Casteel; Chisum; Corte; Crownover; Davis, Y.; Driver; Eissler; Flores; Griggs; Grusendorf; Hamilton; Hardcastle; Harper-Brown; Hegar; Hill; Hodge; Howard; Hupp; Isett; Jackson; Jones, J.; Keffer, J.; King, P.; King, T.; Krusee; Laney; Madden; Miller; Morrison; Mowery; Orr; Phillips; Riddle; Ritter; Rose; Seaman; Smith, W.; Smithee; Strama; Straus; Talton; Taylor; Zedler.

Nays — Allen, A.; Allen, R.; Alonzo; Anchia; Bailey; Baxter; Bohac; Bonnen; Brown, B.; Brown, F.; Burnam; Campbell; Castro; Chavez; Coleman; Cook, B.; Cook, R.; Crabb; Davis, J.; Dawson; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Guillen; Haggerty; Hamric; Hartnett; Herrero; Hilderbran; Hochberg; Homer; Hopson; Hughes; Hunter; Jones, D.; Keel; Keffer, B.; Kolkhorst; Kuempel; Laubenberg; Leibowitz; Luna; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Otto; Paxton; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Rodriguez; Smith, T.; Solis; Solomons; Swinford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez.

Absent — Branch; Delisi; Eiland; Hope; McClendon; Nixon; Woolley.

STATEMENTS OF VOTE

When Record No. 490 was taken, I was in the house but away from my desk. I would have voted yes.

Branch

I was shown voting no on Record No. 490. I intended to vote yes.

B. Brown

When Record No. 490 was taken, I was in the house but away from my desk. I would have voted yes.

Delisi

I was shown voting no on Record No. 490. I intended to vote yes.

Denny

I was shown voting no on Record No. 490. I intended to vote yes.

Flynn

When Record No. 490 was taken, I was in the house but away from my desk. I would have voted no.

Hope

I was shown voting no on Record No. 490. I intended to vote yes.

Keel

I was shown voting no on Record No. 490. I intended to vote yes.

Reyna

I was shown voting no on Record No. 490. I intended to vote yes.

Thompson

A record vote was requested.

Amendment No. 41 failed of adoption by (Record 491): 53 Yeas, 80 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Bailey; Baxter; Burnam; Campbell; Castro; Chavez; Coleman; Deshotel; Dunnam; Dutton; Eiland; Escobar; Farabee; Farrar; Flores; Gallego; Geren; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Hamilton; Herrero; Hochberg; Homer; Hunter; Leibowitz; Luna; Martinez Fischer; McClendon; McReynolds; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Olivo; Peña; Pitts; Puente; Raymond; Ritter; Rodriguez; Smith, W.; Solis; Uresti; Veasey; Villarreal; West; Zedler.

Nays — Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Griggs; Grusendorf; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hodge; Howard; Hughes; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, T.; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Paxton; Phillips; Pickett; Quintanilla; Reyna; Riddle; Seaman; Smith, T.; Smithee; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Wong; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez.

Absent — Dukes; Edwards; Frost; Giddings; Goolsby; Hope; Hopson; King, P.; Kolkhorst; Laney; Menendez; Otto; Rose; Straus; Vo.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 491. I intended to vote no.

Dunnam

When Record No. 491 was taken, I was in the house but away from my desk. I would have voted no.

Frost

When Record No. 491 was taken, I was in the house but away from my desk. I would have voted no.

Giddings

When Record No. 491 was taken, I was temporarily out of the house chamber. I would have voted no.

Hope

When Record No. 491 was taken, I was in the house but away from my desk. I would have voted no.

Hopson

When Record No. 491 was taken, I was in the house but away from my desk. I would have voted no.

P. King

When Record No. 491 was taken, my vote failed to register. I would have voted no.

Menendez

When Record No. 491 was taken, I was in the house but away from my desk. I would have voted no.

Rose

I was shown voting yes on Record No. 491. I intended to vote no.

Zedler

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Woolley on motion of Delisi.

CSHB 3540 - (consideration continued)

Amendment No. 26 - Vote Reconsidered

Representative J. Keffer moved to reconsider the vote by which Amendment No. 26 was adopted.

The motion to reconsider prevailed.

Amendment No. 42

Representative J. Keffer offered the following amendment to Amendment No. 26:

Amend Amendment No. 26 by _____ to **CSHB 3540** by striking SECTIONS __.29, __.30, __.31, __.32, __.33, __.34, __.39, __.40, __.41, __.42, __.48, and __.49, and renumbering SECTIONS accordingly.

Amendment No. 42 was adopted.

Amendment No. 26, as amended, was adopted. (Anchia recorded voting no.)

Amendment No. 43

Representative Menendez offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered article to the bill and renumbering existing articles of the bill accordingly:

ARTICLE ____ . AUTHORIZATION OF LICENSED BINGO ORGANIZATIONS TO CONDUCT CHARITABLE POKER GAMES

SECTION ____.01. The heading to Section 2001.051, Occupations Code, is amended to read as follows:

Sec. 2001.051. CONTROL AND SUPERVISION OF BINGO AND POKER; BINGO DIVISION.

SECTION ____.02. Sections 2001.051(b) and (c), Occupations Code, are amended to read as follows:

(b) The commission has broad authority and shall exercise strict control and close supervision over all bingo and poker conducted in this state so that bingo and poker are [~~is~~] fairly conducted and the proceeds derived from bingo and poker are used for an authorized purpose.

(c) The commission shall execute its authority through a bingo division established by the commission to administer this chapter. The commission has the same enforcement authority to regulate the conduct of poker under this chapter as the commission has to regulate bingo.

SECTION ____.03. Section 2001.055, Occupations Code, is amended to read as follows:

Sec. 2001.055. REGULATION OF GAMES. (a) The commission by rule may establish the number and type of bingo games that may be played during a bingo occasion.

(b) The commission has broad authority to adopt rules relating to the number, type, and conduct of poker games that may be played by a licensed authorized organization under Subchapter O.

SECTION ____.04. Section 2001.413, Occupations Code, is amended to read as follows:

Sec. 2001.413. ADMISSION CHARGE REQUIRED. Except as provided by Section 2001.4155, a licensed authorized organization may not offer or provide to a person the opportunity to play bingo or poker without charge.

SECTION ____.05. Section 2001.416, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not prohibit a licensed authorized organization from conducting a charitable poker game under Subchapter O.

SECTION ____.06. Section 2001.458(a), Occupations Code, is amended to read as follows:

(a) An item of expense may not be incurred or paid in connection with the conduct of bingo or poker except an expense that is reasonable or necessary to conduct bingo or poker, including an expense for:

- (1) advertising, including the cost of printing bingo gift certificates;
- (2) security;
- (3) repairs to premises and equipment;
- (4) bingo and poker supplies and equipment;

- (5) prizes;
- (6) stated rental or mortgage and insurance expenses;
- (7) bookkeeping, legal, or accounting services relating to bingo;
- (8) fees for callers, cashiers, ushers, dealers, janitorial services, and utility supplies and services;
- (9) license fees;
- (10) attending a bingo seminar or convention required under Section 2001.107; and
- (11) debit card transaction fees.

SECTION __.07. Section 2001.459(a), Occupations Code, is amended to read as follows:

(a) The following items of expense incurred or paid in connection with the conduct of bingo or poker must be paid from an organization's bingo account:

- (1) advertising, including the cost of printing bingo gift certificates;
- (2) security during a bingo occasion;
- (3) the purchase or repair of bingo or poker supplies and equipment;
- (4) prizes, other than authorized cash prizes;
- (5) stated rental expenses;
- (6) bookkeeping, legal, or accounting services;
- (7) fees for callers, cashiers, dealers, and ushers;
- (8) janitorial services;
- (9) license fees; and
- (10) payment for services provided by a system service provider.

SECTION __.08. Section 2001.502, Occupations Code, is amended to read as follows:

Sec. 2001.502. PRIZE FEE. (a) A licensed authorized organization shall collect from a person who wins a bingo prize or a prize at a poker game a fee in the amount of five percent of the amount or value of the prize.

(b) The commission shall define what constitutes a prize for the purposes of poker conducted under this chapter. A poker prize may include a prize based on:

- (1) a prize paid to a person from entry fees charged to participate in a poker game; or
- (2) a buy-out paid to a person participating in a poker game, less any money the person pays as a buy-in for the poker game.

SECTION __.09. Chapter 2001, Occupations Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. CHARITABLE POKER

Sec. 2001.701. DEFINITION. In this subchapter, "poker" means a game played with cards of a type traditionally referred to as poker in which:

- (1) a participant bets or plays for money;
- (2) no participant in the game receives any economic benefit from that participation other than personal winnings; and
- (3) except for the advantage of skill or luck, the risks of losing and the chances of winning at the card game are the same for all participants.

Sec. 2001.702. CHARITABLE POKER. A licensed authorized organization may conduct charitable poker games in addition to bingo at the location and times permitted by the organization's license to conduct bingo.

Sec. 2001.703. ENTRY FEE. A licensed authorized organization may charge an entry fee for a person to play a poker game conducted under this subchapter.

Sec. 2001.704. MINORS. An individual younger than 18 years of age may not play poker conducted under a license issued under this chapter.

Sec. 2001.705. PROCEEDS. (a) A licensed authorized organization shall deposit all funds derived from the conduct of poker authorized under this subchapter, less the amount authorized as cash prizes, in the organization's bingo account, as required by Section 2001.451.

(b) Funds deposited in the bingo account under Subsection (a) are subject to the same provisions and requirements as funds derived from the conduct of bingo under Subchapter J.

Sec. 2001.706 APPLICABILITY OF CHAPTER TO CHARITABLE POKER. (a) A licensed authorized organization that conducts poker under this subchapter is subject to the same restrictions, obligations, and duties as are applicable to the conduct of charitable bingo under this chapter.

(b) The commission shall have the same powers and duties to investigate, audit, or regulate an authorized organization, commercial lessor, manufacturer, distributor, or unit manager, or to deny, revoke, or suspend the license of that person, for a violation of this chapter or a commission rule related to poker conducted under this subchapter as the commission has for charitable bingo under this chapter.

Sec. 2001.707. RULEMAKING AUTHORITY. The commission has broad rulemaking authority regarding the licensing and regulation of poker conducted under this subchapter so that poker is fairly conducted and the proceeds derived from poker are used for an authorized purpose, including authority regarding:

(1) limitations on entrance fees, buy-ins and buy-outs, number and amounts of bets, number and amounts of prizes, number of occasions and time limits, and reasonable and necessary expenses associated with conducting poker;

(2) approval of and restrictions on the use of poker equipment, including cards, chips, and tables;

(3) rules of play, including types of poker games authorized, deal, play, rank of poker hands, betting, and conduct of tournaments; and

(4) fairness and integrity of poker games, including player disputes, incorrect hands, cards exposed in dealing, and improper shuffle or cut.

SECTION ____.10. This article takes effect October 1, 2005.

Amendment No. 43 - Point of Order

Representative Talton raised a point of order against further consideration of Amendment No. 43 under Article III, Section 30 of the Texas Constitution, Rule 11, Section 2, and Rule 11, Section 3 of the House Rules on the grounds that the amendment changes the original purpose of the bill and is not germane to the bill.

The speaker overruled the point of order.

Representative Talton moved to table Amendment No. 43.

A record vote was requested.

The motion to table prevailed by (Record 492): 96 Yeas, 41 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Edwards; Eissler; Elkins; Farabee; Flynn; Frost; Gallego; Gattis; Giddings; Goolsby; Griggs; Grusendorf; Hamric; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, J.; Keffer, B.; Keffer, J.; King, T.; Krusee; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McReynolds; Miller; Nixon; Noriega, M.; Orr; Otto; Paxton; Peña; Phillips; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Veasey; Vo; West; Wong; Zedler.

Nays — Alonzo; Anchia; Bailey; Burnam; Castro; Chavez; Coleman; Deshotel; Dutton; Escobar; Flores; Geren; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Haggerty; Hardcastle; Hilderbran; Hochberg; Jones, D.; Keel; Kolkhorst; Kuempel; McClendon; Menendez; Merritt; Moreno, J.; Moreno, P.; Mowery; Naishtat; Olivo; Pickett; Pitts; Puente; Rodriguez; Solis; Strama; Turner; Uresti; Villarreal.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Woolley.

Absent — Branch; Corte; Eiland; Farrar; Hamilton; Hodge; King, P.; Morrison; Oliveira; Quintanilla.

STATEMENTS OF VOTE

When Record No. 492 was taken, I was in the house but away from my desk. I would have voted yes.

Branch

I was shown voting no on Record No. 492. I intended to vote yes.

Coleman

I was shown voting no on Record No. 492. I intended to vote yes.

Merritt

When Record No. 492 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

Amendment No. 44

Representative Hilderbran offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered article to read as follows and renumbering subsequent article accordingly:

ARTICLE __. LOCAL OPTION GAS TAX

SECTION __.01. Title 3, Tax Code, is amended by adding Subtitle E to read as follows:

SUBTITLE E. LOCAL FUEL TAXES

CHAPTER 401. LOCAL FUEL SALES TAX

Sec. 401.001. DEFINITIONS. In this chapter:

- (1) "Dealer" has the meaning assigned by Section 162.001.
- (2) "Diesel fuel" has the meaning assigned by Section 162.001.
- (3) "Gasoline" has the meaning assigned by Section 162.001.
- (4) "Jobber" means a person who:

(A) purchases tax-paid diesel fuel or gasoline from a person who holds a license under Chapter 162; and

(B) makes a sale with the tax included to a person who maintains storage facilities for motor fuel and uses all or part of stored motor fuel to operate a motor vehicle.

(5) "Motor vehicle" has the meaning assigned by Section 162.001.

(6) "Public highway" has the meaning assigned by Section 162.001.

(7) "Sale" has the meaning assigned by Section 162.001.

Sec. 401.002. FUEL SALES TAX AUTHORIZED. (a) A municipality by ordinance or a county, by order of the commissioners court, may impose a sales tax on gasoline and diesel fuel sold in the territory of the municipality or county to propel a motor vehicle on the public highways of this state.

(b) The municipality or county may impose a tax under this chapter only if the tax is approved at an election held under Section 401.004.

Sec. 401.003. RATE OF TAX. The tax authorized by this chapter may be imposed in increments of one-eighth of one percent, not to exceed one percent, on the sale in the territory of the municipality or county of gasoline and diesel fuel used to propel a motor vehicle on the public highways of this state.

Sec. 401.004. ADOPTION ELECTION PROCEDURE. (a) An election to adopt the tax authorized by this chapter is called by adoption of an ordinance by the municipality or by order of the commissioners court.

(b) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local fuel sales tax (name of municipality or county) at the rate of (insert proposed rate)."

Sec. 401.005. ELECTION TO ABOLISH TAX OR CHANGE RATE. (a) The governing body of a municipality by ordinance or the commissioners court of a county by order may call an election on the question of abolishing or changing the rate of the tax authorized by this chapter.

(b) The governing body or commissioners court shall call an election on the question of abolishing or changing the rate of the tax if the municipality or county receives a petition requesting the election signed by a number of registered voters

of the municipality or county, as appropriate, equal to at least five percent of the total vote received in the territory of the municipality or county by all candidates for governor in the most recent gubernatorial general election.

(c) The ballot at an election to change the rate of the tax must be printed to permit voting for or against the proposition: "Authorizing (name of municipality or county) to impose a local fuel tax at the rate of (insert proposed rate)."

(d) The ballot at an election to abolish the tax must be printed to permit voting for or against the proposition: "Abolishing the local fuel sales tax in (name of municipality or county)."

Sec. 401.006. COMPUTATION OF TAX. (a) A person, including a dealer or jobber, who makes a sale of gasoline or diesel in the municipality or county to a person who uses the gasoline or diesel fuel to propel a motor vehicle on the public highways of this state shall collect the tax authorized by this chapter for the benefit of the municipality or county.

(b) The seller shall add the tax authorized by this chapter to the selling price of gasoline or diesel fuel, and the tax is a part of the gasoline or diesel fuel price, a debt owed to the seller, and recoverable at law in the same manner as the gasoline or diesel fuel charge.

(c) The tax authorized by this chapter is in addition to the tax imposed by Chapter 162.

Sec. 401.007. EXEMPTIONS APPLICABLE. The exemptions provided by Sections 162.104 and 162.204 apply to the tax authorized by this chapter.

Sec. 401.008. EFFECTIVE DATE OF TAX OR TAX CHANGE. The adoption or abolition of the tax authorized by this chapter or a change in a tax rate takes effect on the date prescribed by the ordinance or order imposing or abolishing the tax or changing the rate.

Sec. 401.009. COLLECTION AND ENFORCEMENT OF TAX. (a) A person required to collect the tax authorized by this chapter shall report and send the taxes to the municipality or county as provided by the municipality or county.

(b) The municipality or county may prescribe monetary penalties, including interest charges, for failure to keep records required by this chapter, to report when required, or to pay the tax when due.

(c) The municipality or county may permit a person who is required to collect the tax authorized by this chapter to retain a percentage of the amount collected and required to be reported as reimbursement to the person for the costs of collecting the tax. The municipality or county may provide that the person may retain the amount only if the person pays the tax and files reports as required by the municipality or county.

(d) The attorney acting for the municipality or county may bring suit against a person who violates this chapter.

Sec. 401.010. REFUND. (a) A person who has paid the tax authorized by this chapter on gasoline or diesel fuel used by the person for a purpose other than to propel a motor vehicle on the public highways of this state or for a use exempted under Section 401.007 may file a claim for a refund.

(b) The municipality or county shall prescribe the procedures a person must use to obtain a refund under this section.

Sec. 401.011. REQUIRED PERMIT. The municipality or county may require a dealer, jobber, or other person required to collect, report, and pay the tax authorized by this chapter to obtain a permit from the municipality or county.

Sec. 401.012. TRANSFER TO COMPTROLLER. (a) Not later than the last day of the first month following each calendar quarter, the custodian of the municipality or county treasury shall send to the comptroller an amount equal to one-fourth of the taxes collected during that calendar quarter after payment of all refunds allowed by law and expenses of collection.

(b) The comptroller shall deposit money received under this section to the credit of the available school fund.

Sec. 401.013. USE OF TAX PROCEEDS. Except as provided by Section 401.012, the municipality or county may use net tax revenue received under this chapter only for a purpose authorized by Section 7-a, Article VIII, Texas Constitution.

(Corte in the chair)

Amendment No. 45

Representative Hilderbran offered the following amendment to Amendment No. 44:

Amend Amendment No. 44 by Hilderbran to **CSHB 3540** as follows:

- (1) On page 1, line 29, strike "municipality by ordinance or".
- (2) On page 2, line 2, strike "municipality or".
- (3) On page 2, line 4, strike "municipality or".
- (4) On page 2, lines 8 through 10, strike "one-eighth of one percent, not to exceed one percent, on the sale in the territory of the municipality or" and substitute "one cent for each net gallon sold in the".
- (5) On page 2, line 11, between "state" and the period, insert "not to exceed 5 cents for each net gallon".
- (6) On page 2, line 14, strike "ordinance by the municipality or by".
- (7) On page 2, line 18 strike "municipality or".
- (8) On page 2, line 21, strike "governing body of a municipality b ordinance or the".
- (9) On page 2, line 25, strike "governing body or".
- (10) On page 2, line 27, strike "municipality or".
- (11) On page 2, line 29, strike "municipality or county, as appropriate," and substitute "county".
- (12) On page 3, line 1, strike "municipality or".
- (13) On page 3, line 5, strike "municipality or".
- (14) On page 3, line 9, strike "municipality or".
- (15) On page 3, line 13, strike "municipality or".
- (16) On page 3, line 16, strike "municipality or".
- (17) On page 4, line 3, strike "municipality or".
- (18) On page 4, line 4, strike "municipality or".
- (19) On page 4, line 5, strike "municipality or".
- (20) On page 4, line 9, strike "municipality or".
- (21) On page 4, line 13, strike "municipality or".

- (22) On page 4, line 16, strike "municipality or".
 (23) On page 4, line 23, strike "municipality or".
 (24) On page 4, line 26, strike "municipality or".
 (25) On page 4, line 29, strike "municipality or".
 (26) On page 5, line 1, strike "municipality or".
 (27) On page 5, line 8, strike "municipality or".

Amendment No. 45 was adopted.

A record vote was requested.

Amendment No. 44, as amended, failed of adoption by (Record 493): 7 Yeas, 137 Nays, 1 Present, not voting.

Yeas — Campbell; Corte; Hilderbran; Hughes; Isett; Jackson; Jones, D.

Nays — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Woolley.

Absent — Escobar; Riddle; Smith, T.

Amendment No. 46

Representative Gattis offered the following amendment to **CSHB 3540**:

Amend **CSHB 3540** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION __. (a) Chapter 391, Transportation Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. REGULATION OF OUTDOOR ADVERTISING ON
STATE HIGHWAY 130

Sec. 391.301. APPLICABILITY OF SUBCHAPTER. This subchapter does not limit any authority granted to the department under this chapter.

Sec. 391.302. OUTDOOR ADVERTISING WITHOUT LICENSE; OFFENSE. (a) A person commits an offense if the person wilfully erects or maintains outdoor advertising that is located within 2,000 feet of the center line of State Highway 130 or any proposed route for State Highway 130 without a license under this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

Sec. 391.303. LICENSE REQUIRED. (a) The department by rule shall establish a procedure by which the department shall issue a license for outdoor advertising to a person who:

(1) meets the criteria for a license established by the department; and

(2) pays the license fee under Section 391.304.

(b) A license issued under this subchapter is valid for one year.

Sec. 391.304. FEE. (a) The fee for a license under this subchapter is \$100,000.

(b) The department shall deposit the fee received under Subsection (a) to the credit of the Texas Mobility Fund.

(b) The changes in law made by this section to Chapter 391, Transportation Code, apply to outdoor advertising maintained on State Highway 130 or any proposed route for State Highway 130 on or after the date this Act takes effect.

Amendment No. 46 was withdrawn.

Amendment No. 29 - Vote Reconsidered

Representative Isett moved to reconsider the vote by which Amendment No. 29 was adopted.

The motion to reconsider prevailed.

Amendment No. 29 was withdrawn.

A record vote was requested.

CSHB 3540, as amended, was passed to engrossment by (Record 494): 107 Yeas, 37 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Edwards; Eiland; Eissler; Elkins; Escobar; Flores; Flynn; Frost; Gattis; Geren; Giddings; Gonzalez Toureilles; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Hegar; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Keel; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laney; Luna; Madden; McCall; McClendon; McReynolds; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; Vo; West; Wong; Zedler.

Nays — Allen, A.; Alonzo; Bonnen; Burnam; Castro; Coleman; Crabb; Davis, Y.; Dunnam; Farrar; Gallego; Gonzales; Goolsby; Harper-Brown; Hartnett; Herrero; Hilderbran; Hodge; Jackson; Jones, J.; Keffer, B.; King, T.; Laubenberg; Leibowitz; Martinez Fischer; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Olivo; Raymond; Reyna; Rodriguez; Seaman; Thompson; Veasey.

Present, not voting — Mr. Speaker(C); Farabee.

Absent, Excused — Martinez; Woolley.

Absent — Dutton; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 494. I intended to vote no.

Bohac

I was shown voting yes on Record No. 494. I intended to vote no.

Deshotel

I was shown voting yes on Record No. 494. I intended to vote no.

Hopson

I was shown voting yes on Record No. 494. I intended to vote no.

Hughes

I was shown voting yes on Record No. 494. I intended to vote no.

Paxton

I was shown voting yes on Record No. 494. I intended to vote no.

Peña

I was shown voting yes on Record No. 494. I intended to vote no.

Zedler

CSHB 790 ON SECOND READING

(by Crossover, Luna, Eissler, Zedler, et al.)

CSHB 790, A bill to be entitled An Act relating to the conduct of newborn screening by the Department of State Health Services.

Amendment No. 1

Representative Crossover offered the following amendment to **CSHB 790**:

Amend **CSHB 790** (House Committee Report) as follows:

(1) On page 1, line 22, strike "and".

(2) On page 1, between lines 22 and 23, insert the following:

(2) determine the disorders to be studied under Subdivision (1) and ensure the study does not examine screening and services provided under Chapter 47; and

(3) On page 1, line 23, strike "(2)" and substitute "(3)".

(4) On page 2, strike lines 4 through 16 and substitute the following:

(a-1) Not later than October 1, 2005, the department shall review and study the National Newborn Screening and Genetics Resources Center's assessment of the screening program in this state. Based on the findings and recommendations in the assessment, the executive commissioner of the Health and Human Services Commission may adopt rules for the department to implement a newborn genetic screening program. In adopting rules for the newborn genetic screening program, the department and the executive commissioner:

(1) may seek input during the rulemaking process from individuals and groups with an interest or expertise in newborn screening;

(2) may use informal conferences or consultations to obtain opinions on the program as provided by Section 2001.031, Government Code; and

(3) must provide an opportunity for the individuals and groups described by Subdivision (1) to appear before the department before a notice of proposed rules is given as required by Section 2001.023, Government Code.

(a-2) This subsection and Subsection (a-1) expire January 1, 2007.

(b) In accordance with rules adopted by the executive commissioner of the Health and Human Services Commission, the department may implement a newborn genetic screening program.

(b-1) Not later than March 1, 2006, the department shall file with the governor's office a written report of the results and conclusions of the study conducted by the department under Subsection (a). This subsection expires January 1, 2007.

Amendment No. 1 was adopted.

CSHB 790, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1718 ON SECOND READING
(by Zedler)

CSHB 1718, A bill to be entitled An Act relating to the regulation of certain nursing practices.

CSHB 1718 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

CSHB 2753 ON SECOND READING
(by Pitts)

CSHB 2753, A bill to be entitled An Act relating to the powers, duties, and functions of the Legislative Budget Board.

Amendment No. 1

Representative Gallego offered the following amendment to **CSHB 2753**:

Amend **CSHB 2753** by striking SECTIONS 5, 6, and 7 of the bill (page 4, line 2 through page 5, line 1) and renumbering the subsequent SECTIONS of the bill accordingly.

Representative Pitts moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 495): 92 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Dukes; Eissler; Elkins; Flynn; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Hill; Hodge; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Keel; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McClendon; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Phillips; Pitts; Puente; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; West; Wong; Zedler.

Nays — Alonzo; Anchia; Burnam; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dunnam; Dutton; Eiland; Escobar; Farabee; Farrar; Frost; Gallego; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Harper-Brown; Herrero; Hochberg; Homer; Hopson; Jones, D.; Jones, J.; Laney; Leibowitz; Martinez Fischer; McCall; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Olivo; Peña; Quintanilla; Raymond; Ritter; Rodriguez; Thompson; Veasey; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Woolley.

Absent — Allen, A.; Edwards; Flores; Hilderbran; Keffer, B.; Luna; Pickett; Villarreal.

STATEMENT OF VOTE

When Record No. 495 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

Amendment No. 2

Representative Pitts offered the following amendment to **CSHB 2753**:

Amend **CSHB 2753** as follows:

(1) On page 5, line 3, strike "Sections 322.019-322.021" and substitute "Section 322.019".

(2) Strike page 5, line 4, through page 6, line 5.

(3) On page 6, line 6, strike "322.021" and substitute "322.019".

(4) On page 6, strike lines 9 through 14 and substitute the following:

(b) The board may serve as the statistical analysis center for the state and as the liaison for the state to the United States Department of Justice on criminal justice issues of interest to the state and federal government relating to data, information systems, and research if an executive branch agency or institution of higher education is not designated by the governor to perform those functions.

(5) Insert the following appropriately numbered SECTION and renumber the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.146 to read as follows:

Sec. 552.146. EXCEPTION: CERTAIN COMMUNICATIONS WITH ASSISTANT OR EMPLOYEE OF LEGISLATIVE BUDGET BOARD. All communications, including conversations, correspondence, and electronic communications, between a member of the legislature or the lieutenant governor and an assistant or employee of the Legislative Budget Board are excepted from the requirements of Section 552.021.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Hochberg offered the following amendment to **CSHB 2753**:

Amend **CSHB 2753** as follows:

(1) Strike SECTION 2 (page 2, lines 11 through 17) and renumber existing sections of the substitute accordingly; and

(2) Strike SECTION 9(b) (page 7, lines 1 through 2) and reletter existing subsections of the section accordingly.

Amendment No. 3 was adopted.

CSHB 2753, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CONSTITUTIONAL AMENDMENTS CALENDAR HOUSE JOINT RESOLUTIONS SECOND READING

The following resolutions were laid before the house and read second time:

HJR 80 ON SECOND READING (by Krusee)

HJR 80, A joint resolution proposing a constitutional amendment clarifying that certain economic development programs do not constitute a debt.

Amendment No. 1

Representative Krusee offered the following amendment to **HJR 80**:

Amend **HJR 80** as follows:

(1) On page 2, line 1, strike "the state or".

(2) On page 2, line 2, strike "the state or".

Amendment No. 1 was adopted.

A record vote was requested.

HJR 80, as amended, was adopted by (Record 496): 121 Yeas, 12 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, R.; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hill; Hochberg; Hodge; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Nays — Allen, A.; Anchia; Crabb; Farrar; Herrero; Hope; King, T.; Leibowitz; Moreno, J.; Mowery; Naishtat; Rodriguez.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Woolley.

Absent — Alonzo; Bonnen; Burnam; Coleman; Cook, B.; Corte; Driver; Gonzalez Toureilles; Goolsby; Hilderbran; Keel; Moreno, P.; Morrison; Phillips.

STATEMENTS OF VOTE

When Record No. 496 was taken, I was in the house but away from my desk. I would have voted yes.

B. Cook

When Record No. 496 was taken, I was in the house but away from my desk. I would have voted no.

Corte

When Record No. 496 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

When Record No. 496 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Straus on motion of J. Jones.

GENERAL STATE CALENDAR HOUSE BILLS THIRD READING

The following bills were laid before the house and read third time:

HB 1900 ON THIRD READING (by Bonnen)

HB 1900, A bill to be entitled An Act relating to the assessment and regulation of emissions events.

Representative Bonnen moved to postpone consideration of **HB 1900** until 10 a.m. May 6.

The motion prevailed.

HB 3111 ON THIRD READING (by Corte)

HB 3111, A bill to be entitled An Act relating to authorizing the presiding officer of a political subdivision to order an evacuation in certain emergency circumstances.

A record vote was requested.

HB 3111 was passed by (Record 497): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Straus; Woolley.

Absent — Driver; Dukes; Hodge; Homer.

HB 1146 ON THIRD READING
(by Chisum, Anderson, and Flynn)

HB 1146, A bill to be entitled An Act relating to contingent payment clauses in certain construction contracts.

HB 1146 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Berman recorded voting no.)

HB 1208 ON THIRD READING
(by Gattis)

HB 1208, A bill to be entitled An Act relating to a limitation on the use of eminent domain by municipal utility districts.

A record vote was requested.

HB 1208 was passed by (Record 498): 142 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Nays — Castro.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Straus; Woolley.

Absent — Anderson; Burnam; Gonzales.

HB 1358 ON THIRD READING
(by Flores)

HB 1358, A bill to be entitled An Act relating to the jurisdiction of the Texas Commission on Environmental Quality over certain water supply or sewer service corporations.

A record vote was requested.

HB 1358 was passed by (Record 499): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Otto; Paxton; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Straus; Woolley.

Absent — Corte; Guillen; Krusee; Peña.

STATEMENT OF VOTE

When Record No. 499 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

HB 905 ON THIRD READING
(by Delisi)

HB 905, A bill to be entitled An Act relating to the powers and duties of the state auditor in connection with state contracts.

A record vote was requested.

HB 905 was passed by (Record 500): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Straus; Woolley.

Absent — Casteel; Howard; Laney; Noriega, M.

STATEMENT OF VOTE

When Record No. 500 was taken, I was in the house but away from my desk. I would have voted yes.

Casteel

HB 1577 ON THIRD READING (by Nixon, Homer, Frost, and Farabee)

HB 1577, A bill to be entitled An Act relating to the provision of health care services by a physician assistant during a disaster.

A record vote was requested.

HB 1577 was passed by (Record 501): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.;

King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Straus; Woolley.

Absent — Callegari; Driver; Orr.

HB 1611 ON THIRD READING

(by Chisum, Turner, R. Allen, Hochberg, Edwards, et al.)

HB 1611, A bill to be entitled An Act relating to the use of money for the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program.

Amendment No. 1

Representative Chisum offered the following amendment to **HB 1611**:

Amend **HB 1611** on third reading as follows:

(1) On page 4, line 13, strike "Section 382.217" and substitute "Sections 382.217 and 382.218".

(2) On page 5 between lines 18 and 19, insert the following:

Sec. 382.218. REQUIRED PARTICIPATION BY CERTAIN COUNTIES.

(a) This section applies only to a county with a population of 650,000 or more that borders the United Mexican States.

(b) A county that was at any time required, because of the county's designation as a nonattainment area under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), to participate in the vehicle emissions inspection and maintenance program under this subchapter and Subchapter F, Chapter 548, Transportation Code, shall continue to participate in the program even if the county is designated as an attainment area under the federal Clean Air Act.

Amendment No. 1 was adopted.

A record vote was requested.

HB 1611, as amended, was passed by (Record 502): 133 Yeas, 3 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Brown, B.; Brown, F.; Burnam; Campbell; Casteel; Castro; Chavez; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown;

Hartnett; Hegar; Herrero; Hilderbran; Hill; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Pickett; Pitts; Puente; Quintanilla; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong.

Nays — Bonnen; Chisum; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Straus; Woolley.

Absent — Allen, A.; Alonzo; Branch; Callegari; Dutton; Hochberg; Moreno, P.; Phillips; Raymond; Truitt.

STATEMENT OF VOTE

When Record No. 502 was taken, I was in the house but away from my desk. I would have voted yes.

Branch

HB 1831 ON THIRD READING (by Talton)

HB 1831, A bill to be entitled An Act relating to the definition of "convicted" for purposes of eligibility to carry a concealed handgun.

HB 1831 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1867 ON THIRD READING (by Naishtat)

HB 1867, A bill to be entitled An Act relating to the transfer of money appropriated to provide care for certain persons in nursing facilities to provide community-based services to those persons.

HB 1867 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1476 ON THIRD READING (by Edwards, Van Arsdale, Crabb, and Riddle)

HB 1476, A bill to be entitled An Act relating to regulation of certain sexually suggestive performances at public school events.

A record vote was requested.

HB 1476 was passed by (Record 503): 85 Yeas, 55 Nays, 3 Present, not voting.

Yeas — Allen, R.; Anderson; Bailey; Baxter; Berman; Bohac; Branch; Brown, B.; Callegari; Campbell; Casteel; Chavez; Chisum; Cook, B.; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Deshotel; Driver; Edwards; Eissler; Elkins; Flynn; Gattis; Goodman; Goolsby; Grusendorf; Haggerty; Hamilton; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hope; Howard; Hughes; Hunter; Isett; Jackson; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; Krusee; Kuempel; Laubenberg; Luna; Madden; McCall; Merritt; Miller; Moreno, J.; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Peña; Phillips; Pitts; Quintanilla; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Blake; Brown, F.; Burnam; Castro; Coleman; Cook, R.; Davis, J.; Davis, Y.; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Tourelles; Griggs; Hamric; Herrero; Hodge; Homer; Hopson; Hupp; Jones, D.; Kolkhorst; Laney; Leibowitz; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Pickett; Ritter; Rodriguez; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C); Bonnen; King, T.

Absent, Excused — Martinez; Straus; Woolley.

Absent — Giddings; Guillen; Puente; Raymond.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 503. I intended to vote no.

B. Cook

I was shown voting no on Record No. 503. I intended to vote yes.

Gallego

When Record No. 503 was taken, my vote failed to register. I would have voted yes.

Guillen

I was shown voting yes on Record No. 503. I intended to vote present, not voting.

Hunter

I was shown voting yes on Record No. 503. I intended to vote no.

Krusee

I was shown voting no on Record No. 503. I intended to vote yes.

Menendez

I was shown voting yes on Record No. 503. I intended to vote no.

J. Moreno

I was shown voting yes on Record No. 503. I intended to vote no.

Quintanilla

I was shown voting no on Record No. 503. I intended to vote yes.

Turner

HB 2017 ON THIRD READING
(by Swinford)

HB 2017, A bill to be entitled An Act relating to a nonsubstantive revision of statutes relating to the Texas Department of Insurance, the business of insurance, and certain related businesses, including conforming amendments, repeals, and penalties.

HB 2017 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2018 ON THIRD READING
(by Swinford)

HB 2018, A bill to be entitled An Act relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 78th Legislature to other Acts of that legislature.

HB 2018 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2019 ON THIRD READING
(by Swinford)

HB 2019, A bill to be entitled An Act relating to the nonsubstantive revision of certain local laws concerning special districts, including conforming amendments.

HB 2019 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2767 ON THIRD READING
(by Talton)

HB 2767, A bill to be entitled An Act relating to the release of a criminal defendant in certain cases and the eligibility of certain individuals to act as sureties on bail bonds.

HB 2767 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2902 ON THIRD READING
(by Hilderbran)

HB 2902, A bill to be entitled An Act relating to the maintenance and repair of courthouses that have benefited from the historic courthouse preservation program.

HB 2902 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 3386 ON THIRD READING
(by Talton)

HB 3386, A bill to be entitled An Act relating to the possession or shooting of a handgun on the land of the Lower Colorado River Authority by a person licensed to carry a concealed handgun.

HB 3386 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 120 ON THIRD READING
(by Dawson, Edwards, J. Davis, Anderson, Coleman, et al.)

HB 120, A bill to be entitled An Act relating to the creation of a donor education, awareness, and registry program, the establishment of an organ donor and tissue council, and anatomical gift donation.

A record vote was requested.

HB 120 was passed by (Record 504): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds;

Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Straus; Woolley.

Absent — Cook, R.

**GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**CSHB 1777 ON SECOND READING
(by P. King)**

CSHB 1777, A bill to be entitled An Act relating to regulation of the electric power market.

Amendment No. 1

Representative P. King offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** as follows:

(1) On page 31, line 12, strike "administered by the independent organization".

(2) On page 32, lines 22-23, strike "and to a market participant that is the subject of the report".

(3) On page 35, lines 15-16, strike "for an anticompetitive purpose".

(4) On page 37, strike lines 2-5 and substitute:

Section 39.201 or 39.262. This [and stranded costs, because this] type of debt will lower the carrying costs of the

(5) On page 39, line 20, strike "39.904" and substitute "39.903(g), 39.904".

(6) Add a new section to the bill, numbered appropriately, to read as follows:

SECTION ____ . Section 35.004(e), Utilities Code, is amended to read as follows:

(e) The commission shall ensure that ancillary services necessary to facilitate the transmission of electric energy are made available by suppliers and acquired by the independent organization at reasonable prices with terms and conditions that are not unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive. In this subsection, "ancillary services" means services necessary to facilitate the transmission of electric energy including load following, standby power, backup power, reactive power, and any other services as the commission may determine by rule. [~~On the introduction of customer choice in the ERCOT power region, acquisition of generation related ancillary~~

~~services on a nondiscriminatory basis by the independent organization in ERCOT on behalf of entities selling electricity at retail shall be deemed to meet the requirements of this subsection.]~~

(7) Add a new section to the bill, numbered appropriately, to read as follows:

SECTION ____. Section 39.203, Utilities Code, is amended by adding Subsection (i) to read as follows:

(i) A power generation company that was operating in this state on January 1, 2005, is not subject to a commission requirement to pay all or part of the cost of any new transmission facility necessary to transmit power from an upgrade of, repowering of, or addition to a generating facility in this state operated by the power generation company on January 1, 2005. This subsection expires September 1, 2010.

(8) Add a new section to the bill, numbered appropriately, to read as follows:

SECTION ____. Section 39.903(g), Utilities Code, is amended to read as follows:

(g) Until customer choice is introduced in a power region, an electric utility may not reduce, in any manner, programs already offered to assist low-income electric customers. Notwithstanding any other provision of this chapter, this subsection applies to an electric utility operating outside ERCOT.

Amendment No. 1 was adopted. (Talton recorded voting no.)

Amendment No. 2

Representative P. King offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** as follows:

(1) On page 39, line 6, by striking the word "Electric" and substituting the word "Electricity".

(2) On page 43 by inserting new subsection (g) between lines 15 and 16 to read as follows:

(g) After the requirements of subsection (b) are fully completed and upon a finding of good cause, as determined by the commission after notice and hearing, the sequence for retail competition set forth in this section may be modified by commission order.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Hartnett offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** by adding a new section to the bill, numbered appropriately, to read as follows and renumbering subsequent sections accordingly:

SECTION ____. Before implementing a new wholesale transmission and distribution market design, the Public Utility Commission of Texas shall provide to the Senate Committee on Business and Commerce and the House Committee on Regulated Industries a report that contains:

(1) an executive summary and detailed description of the changes in the wholesale transmission and distribution market that the commission has ordered, including the effect the new market design is anticipated to have on local congestion costs;

(2) a list of entities, associations, and groups that have submitted comments to the commission on the new market design, classified by whether the comments indicated support for or opposition to the new market design;

(3) a comparison of the new market design to any similar market design adopted in any other state;

(4) a timeline for the implementation of the new market design, including estimated costs of implementation;

(5) the estimated increases in wholesale and retail electricity prices that will be caused in each county in this state by the new market design, projected over the first five years after the date the new design will be implemented; and

(6) the names, business addresses, and telephone numbers of the members of the Texas Nodal Team and of any other quasi-official working group that recommends to the commission the adoption of the new market design.

Amendment No. 3 was adopted. (B. Brown recorded voting no.)

Amendment No. 4

Representative Chisum offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** by striking Sections 4 and 5 of the bill (page 20, line 24, through page 21, line 19), by adding the following appropriately numbered section, and by renumbering the subsequent sections accordingly:

SECTION ____ . Subchapter E, Chapter 36, Utilities Code, is amended by adding Section 36.209 to read as follows:

Sec. 36.209. RECOVERY BY CERTAIN NON-ERCOT UTILITIES OF CERTAIN TRANSMISSION COSTS. (a) This section applies only to an electric utility that operates solely outside of ERCOT in areas of this state included in the Southwest Power Pool and that owns or operates transmission facilities.

(b) Notwithstanding Section 36.201, after notice and hearing, the commission may allow an electric utility to recover on an annual basis its reasonable and necessary expenditures for transmission infrastructure improvement costs and changes in wholesale transmission charges to the electric utility under a tariff approved by a federal regulatory authority to the extent that the costs or charges have not otherwise been recovered. The commission may allow the electric utility to recover only the costs allocable to retail customers in this state and may not allow the electric utility to over-recover costs.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Turner offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** as follows:

(1) On page 35, line 4, strike "unjust".

Amendment No. 5 was withdrawn.

Amendment No. 6

Representative Swinford offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** as follows:

(1) On page 48, lines 1 and 2, strike ", other than gasification of municipal solid waste".

(2) On page 48, line 4, strike "organic" and substitute "biomass".

(3) On page 48, line 5, after the period, insert "Renewable energy credits may not be issued for nondurable goods or containers and packaging."

Amendment No. 6 was adopted.

Amendment No. 7

Representative Burnam offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** on page 47 line 24 by striking: "gasification of municipal solid waste," and on page 48 line 1 through 5 striking:

" , other than gasification of municipal solid waste. In this subsection, "municipal solid waste" means nondurable goods, containers and packaging, food wastes, yard trimmings, and miscellaneous organic wastes from residential, commercial, and industrial nonprocess sources." And substituting ". "

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative Burnam offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777**, page 48, line 5 by inserting the following after the word "sources",

In addition, for a municipal solid waste gasification facility to qualify under this section, it must achieve an emissions rate of no greater than 0.14 lbs per megawatt hour of nitrogen oxides and must produce zero emissions of hazardous air pollutants as defined in 42 U.S.C. 7412 (a) (6).

Amendment No. 8 was withdrawn.

Amendment No. 9

Representatives R. Cook and J. Keffer offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** by adding the following section, appropriately numbered:

SECTION ____ . (a) It is the policy of this state to ensure that all electric customers in ERCOT, including low-income customers and customers in rural and other high-cost areas, have access to electric energy service at reasonable rates.

(b) The Public Utility Commission of Texas shall conduct a study to determine methods or mechanisms to ensure that residential customers who are currently being served by an affiliated retail electric provider at the "price-to-beat" rate will continue to have default electric service available at reasonable rates. On September 1, 2005, the commission shall begin the review

required by this subsection. The review must include the methods other competitive regions, including Ohio, Maine, Maryland, Massachusetts, and New Jersey, use to provide default services to residential customer classes at reasonable rates.

(c) The study required by Subsection (b) of this section must

(1) evaluate:

(A) extending or modifying the "price-to-beat;"

(B) local governmental aggregation, including municipal "opt-out" mechanisms; and

(C) competitive procurement load auctions; and

(2) compare, regarding various mechanisms or methods considered:

(A) resulting prices for service at wholesale;

(B) resulting prices for service at retail;

(C) key features of each mechanism or method and key differences between the mechanisms or methods;

(D) the level of wholesale supplier competition under each mechanism or method, measured by factors such as:

(i) numbers of participants;

(ii) volumes bid; or

(iii) other relevant factors; and

(E) any other factors or variables the commission considers necessary to arrive at a conclusion and to make recommendations under this section.

(d) The Public Utility Commission of Texas shall conclude the study under this section not later than February 1, 2006, and shall determine at that time a mechanism by which residential customers served by an affiliated retail electric provider will be able to receive the lowest cost default electric service on and after January 1, 2007.

(e) The Public Utility Commission of Texas shall present a report of the study and the recommendations made as a result of the study to the joint electric utility restructuring legislative oversight committee on or before March 1, 2006.

(f) The joint electric utility restructuring legislative oversight committee shall hold hearings on the study and recommendations in each region of the state served by an affiliated retail electric provider and following the hearings shall make recommendations to the 80th Legislature on the best means to provide residential customers default electric service at the lowest cost.

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative Martinez Fischer offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** as follows:

(1) On page 23, line 24, strike "and (n)" and substitute "(n), (o), and (p)".

(2) On page 28, between lines 24 and 25, insert the following:

(o) An independent organization certified under this section is subject to Chapter 552, Government Code, as if it were a governmental body under that chapter.

(p) Information is excepted from the requirements of Section 552.021, Government Code, if the information is collected, assembled, or maintained by or for the independent organization:

(1) as part of the duty of the organization to support wholesale and retail electric markets and the information is competitively sensitive information of a third party that provides electric service within the transmission system managed by the independent organization that if disclosed, would give advantage to competitors or prospective competitors of the third party;

(2) for the purpose of maintaining the reliability of an electric transmission system that if disclosed, could provide information about security measures of the independent organization or information about the transmission system or a related control or communication system that could aid acts of terrorism or other criminal activity against the independent organization or the electric transmission system; or

(3) in relation to the development or construction of a system used by the independent organization to maintain the security and reliability of the transmission grid or in support of market systems or processes of the independent organization.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Turner offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** on page __, line __, to add new section __ and renumber the remaining sections:

SECTION __. Utilities Code is amended to create a new section, as follows:
39.208 Filing Terms of Service.

(a) Application. This section applies to all affiliated retail electric providers ("AREP") but only with respect to each product or service that they offer or provide to any residential customer as well as each product or services that they offer or provide to any commercial customer whose peak demand is 1,000 kilowatts or less. For the purpose of this section, an aggregation group is not considered a single customer. For each customer class, this section does not apply to that customer class if the AREP serves less than 40 percent of the customer meters for the relevant customer class within the affiliated transmission and distribution utility's certificated service area.

(b) Effective Terms of Service. No later than 45 days prior to the effective date, an AREP must file its Terms of Service with the commission. No AREP shall directly or indirectly demand, charge, or collect any rate or charge, or impose any classifications, practices, rules, or regulations different from those prescribed in the applicable effective Terms of Service filed with the commission. The Terms of Service shall include:

1. itemized prices or rates to be charged to a customer;
2. any required length of service;

3. all material terms and conditions, including, without limitation, exclusions, reservations, limitations, and conditions of the terms of services offered by the AREP; and

4. all other items specified by the commission by rule.

The AREP must provide the commission and all subscribing customers with at least 45 days notice of any change in its Terms of Service. An AREP may offer more than one version of Terms of Service to any particular customer class but only if each separate Terms of Service meets all of the requirements of this section and if each similarly situated customer has the right to choose that service.

(c) Availability of Terms of Service. Each AREP shall make available to the public at each of its business offices, designated sales offices within Texas and posted with the commission, all of its Terms of Service currently on file with the commission, and its employees shall lend assistance to persons seeking information on its Terms of Service and afford inquirers an opportunity to examine any Terms of Service upon request. The AREP also shall make the full text of each Terms of Service available on its website and shall provide copies of any portion of its Terms of Service at a reasonable cost. Any item filed confidentially with the commission shall not satisfy, in whole or in part, the requirements of this section. No portion of a Terms of Service filed under this section shall be considered confidential for any purpose.

(d) Notice. The commission shall determine the appropriate public notice required for changes in Terms of Service and shall require notice in the Texas Register of all Terms of Service filings.

(e) Review and Decision by Commission. The commission shall review each Terms of Service and must reject a Terms of Service if it determines that rate proposed by the AREP is:

(1) unreasonably preferential, prejudicial, or discriminatory;

(2) subsidized either directly or indirectly by a regulated monopoly service, an affiliated power generation company or a transmission and distribution utility; or

(3) predatory or anticompetitive.

(f) Transition period. All Terms of Service in effect on or after January 1, 2005, shall be filed with the commission no later than November 1, 2005.

(g) Withdrawal of a service. At least 45 days prior to discontinuing any service or rate, the AREP must file a notice of discontinuance of the service or price with the commission and shall send notice to all customers taking service under those Terms of Service. If the service has no current customers, the AREP shall provide an affidavit to this effect with a notice of discontinuance of the Terms of Service.

Representative P. King moved to table Amendment No. 11.

A record vote was requested.

The motion to table prevailed by (Record 505): 89 Yeas, 52 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Farabee; Flynn; Gattis; Geren; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Pitts; Quintanilla; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Swinford; Talton; Taylor; Truitt; West; Wong; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Herrero; Hochberg; Hodge; Jones, J.; Leibowitz; Luna; Martinez Fischer; McClendon; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Phillips; Pickett; Puente; Raymond; Rodriguez; Rose; Solis; Solomons; Strama; Thompson; Turner; Uresti; Veasey; Villarreal.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Straus; Woolley.

Absent — Goolsby; Menendez; Smithee; Van Arsdale; Vo.

STATEMENT OF VOTE

When Record No. 505 was taken, my vote failed to register. I would have voted no.

Menendez

Amendment No. 12

Representative R. Cook offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** by adding the following section, appropriately numbered:

SECTION _____. (a) It is the policy of this state to ensure that all electric customers in ERCOT, including low-income customers and customers in rural and other high-cost areas, have access to electric energy service at reasonable rates.

(b) The Public Utility Commission of Texas shall conduct a study to determine methods or mechanisms to ensure that residential customers who are currently being served by an affiliated retail electric provider at the "price-to-beat" rate will continue to have default electric service available at reasonable rates. On September 1, 2005, the commission shall begin the review required by this subsection. The review must include the methods other competitive regions, including Ohio, Maine, Maryland, Massachusetts, and New Jersey, use to provide default services to residential customer classes at reasonable rates.

(c) The study required by Subsection (b) of this section must

- (1) evaluate:
 - (A) extending or modifying the "price-to-beat;"
 - (B) local governmental aggregation, including municipal "opt-out" mechanisms; and
 - (C) competitive procurement load auctions; and
- (2) compare, regarding various mechanisms or methods considered:
 - (A) resulting prices for service at wholesale;
 - (B) resulting prices for service at retail;
 - (C) key features of each mechanism or method and key differences between the mechanisms or methods;
 - (D) the level of wholesale supplier competition under each mechanism or method, measured by factors such as:
 - (i) numbers of participants;
 - (ii) volumes bid; or
 - (iii) other relevant factors; and
 - (E) any other factors or variables the commission considers necessary to arrive at a conclusion and to make recommendations under this section.

(d) The Public Utility Commission of Texas shall conclude the study under this section not later than February 1, 2006, and shall determine at that time a mechanism by which residential customers served by an affiliated retail electric provider will be able to receive the lowest cost default electric service on and after January 1, 2007.

(e) The Public Utility Commission of Texas shall present a report of the study and the recommendations made as a result of the study to the joint electric utility restructuring legislative oversight committee on or before March 1, 2006.

(f) The joint electric utility restructuring legislative oversight committee shall hold hearings on the study and recommendations in each region of the state served by an affiliated retail electric provider and following the hearings shall make recommendations to the 80th Legislature on the best means to provide residential customers default electric service at the lowest cost.

Amendment No. 13

Representative Flores offered the following amendment to Amendment No. 12:

Amend Floor Amendment No. 12 by R. Cook to **CSHB 1777** by adding the following appropriately numbered instruction to the amendment and renumbering existing instructions in the amendment accordingly:

() Add the following appropriately numbered section to the bill and renumber existing sections accordingly:

SECTION _____. The Public Utility Commission shall conduct a study of the effects of a utility controlling 20 percent or more of the installed generation capacity inside an ERCOT zonal boundary or a functional market recognized by that commission on the price of electricity to consumers, including consumers in the zonal boundary and throughout ERCOT. The Public Utility Commission shall submit a report of the study to the Legislature on or before January 1, 2007.

Amendment No. 13 was adopted.

Amendment No. 12, as amended, was adopted.

Amendment No. 14

Representative Hopson offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** by adding a new section, numbered appropriately, to read as follows:

SECTION __. (a) The Public Utility Commission of Texas, as a part of the commission's continuing analysis of reserve margins and capacity needs for the ERCOT system, shall consider creating and may establish a new alternative market mechanism to allow a potential interruptible industrial load that is greater than one megawatt and that will not be participating in the ERCOT market to be treated as a "load acting as a resource" and to allow compensation for that treatment.

(b) The legislature finds that Texas businesses that are able to participate in an alternative interruptible service compete in interstate and global markets and that the opportunity for the businesses to be compensated for their interruptible loads is essential to the businesses' ability to remain competitive and to provide significant benefits to the economy of this state. The Public Utility Commission of Texas shall consider these economic benefits in analyzing the potential of interruptible service. Not later than January 1, 2006, the Public Utility Commission of Texas shall report any actions taken regarding interruptible service and the results of its analysis of interruptible service to the governor, lieutenant governor, the speaker of the house of representatives, and the presiding officers of each legislative committee with jurisdiction over electric services.

Amendment No. 14 was adopted.

Amendment No. 15

Representative Solomons offered the following amendment to **CSHB 1777**:

Amend **CSHB 1777** by adding a new SECTION 13 and renumbering subsequent sections accordingly:

SECTION 13. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.159 to read as follows:

Sec. 39.159. WHOLESALE ELECTRIC MARKET DESIGN. Prior to directing the implementation of a wholesale electric market that utilizes locational marginal pricing, the commission shall direct the Electric Reliability Council of Texas to implement improvements to the zonal wholesale electric market. The commission shall evaluate the effectiveness of those improvements and report those results and any recommendations to the legislature by January 9, 2007.

Representative P. King moved to table Amendment No. 15.

The motion to table prevailed. (Gonzalez Toureilles recorded voting no.)

A record vote was requested.

CSHB 1777, as amended, was passed to engrossment by (Record 506): 139 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Strama; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Vo; West; Wong; Zedler.

Nays — Solomons.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez; Straus; Woolley.

Absent — Burnam; Hodge; Oliveira; Pickett; Swinford; Villarreal.

CSHB 1842 ON SECOND READING
(by Delisi)

CSHB 1842, A bill to be entitled An Act relating to the licensing and regulation of massage therapists; providing a penalty.

Amendment No. 1

Representative Delisi offered the following amendment to **CSHB 1842**:

Amend **CSHB 1842** (House Committee Report) as follows:

(1) Strike SECTION 7 of the bill (page 8, lines 11 through 19) and renumber the subsequent SECTIONS of the bill accordingly.

(2) On page 26, line 5, between "455.102" and "and", insert ", 455.103,".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Delisi offered the following amendment to **CSHB 1842**:

Amend **CSHB 1842** (House Committee Report) on page 2, line 15, between "chiropractor," and "physical therapist", by inserting "occupational therapist,".

Amendment No. 2 was adopted.

CSHB 1842, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Jackson recorded voting no.)

HB 965 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Haggerty called up with senate amendments for consideration at this time,

HB 965, A bill to be entitled An Act relating to a prohibition on the regulation of emissions from certain residential water heaters.

Representative Haggerty moved to concur in the senate amendments to **HB 965**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 965** as follows:

(1) In SECTION 1 of the bill, in the proposed heading to Section 382.0275, Health and Safety Code (committee printing page 1, line 15), strike "PROHIBITION ON".

(2) In SECTION 1 of the bill, strike proposed Subsection (b), Section 382.0275, Health and Safety Code (committee printing page 1, lines 21-23), and substitute the following:

(b) The commission shall direct the executive director to perform a study, to be completed by December 31, 2005, regarding the technical and economic feasibility of regulating residential water heaters. If the executive director's study shows that regulation of residential water heaters is technically or economically infeasible, the executive director shall recommend to the commission that the rules concerning water heaters be repealed not later than December 31, 2006, and shall propose emission reductions to offset the loss of state implementation plan credits from the rules. The commission shall provide notice of and hold a public hearing on the study.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Civil Practices is cancelled.

Urban Affairs, upon final adjournment today, Desk 48, for a formal meeting, to consider **SB 1050**, **SB 1421**, and pending business.

State Affairs, upon final adjournment today, Desk 9, for a formal meeting, to consider committee business.

Rules and Resolutions, upon final adjournment today, Desk 133, for a formal meeting, to consider the calendar.

Business and Industry, upon final adjournment today, Desk 103, for a formal meeting, to consider **SB 5** and other pending business.

Elections, upon final adjournment today, Desk 58, for a formal meeting, to consider pending business.

Conference Committee on **SB 1**, the scheduled 8 a.m. meeting tomorrow is cancelled.

ADJOURNMENT

Representative Pickett moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed.

The house accordingly, at 7:39 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

Senate List No. 14**SB 481****MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 4, 2005

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 244 Wentworth
Relating to priority of payment relating to property owners' association assessments.

SB 395 Seliger
Relating to the submission of certain pleas and waivers by closed circuit video teleconferencing.

SB 964 Lucio
Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.

SB 1170 Armbrister
Relating to the regulation of gas production by the Railroad Commission of Texas.

SB 1175 Armbrister
Relating to the regulation of oil and gas production by the Railroad Commission of Texas.

SB 1228 Shapiro
Relating to a statewide assessment and accountability system for public institutions of higher education, to an annual analysis and report by the Texas Higher Education Coordinating Board regarding financial information submitted by those institutions, and to tuition deregulation with regard to those institutions.

SB 1304 Seliger
Relating to projects that may be undertaken by certain development corporations with respect to business enterprises or business development.

SB 1500 Lucio
Relating to the allocation of federal funds directed to be used to support graduate medical education in connection with the state Medicaid program.

SJR 27 Lucio
Proposing a constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board to provide assistance to economically distressed areas.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 4, 2005 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 1503 Davis, John SPONSOR: Deuell
Relating to the additional exit conference required following inspection, survey, or investigation of certain facilities.
(COMMITTEE SUBSTITUTE)

HCR 36 Smith, Wayne SPONSOR: Hinojosa
 Giving legislative authorization to a Vietnam War monument for the Capitol grounds, subject to state law and rules of the State Preservation Board.

HCR 161 Homer SPONSOR: Eltife
 Congratulating the Paris Junior College men's basketball team for winning the 2005 National Junior College Athletic Association championship.

HCR 162 Homer SPONSOR: Eltife
 Honoring Bill Foy, head basketball coach at Paris Junior College, on his selection as the Junior College Coach of the Year by the National Association of Basketball Coaches.

HCR 165 Homer SPONSOR: Eltife
 Recognizing May 4, 2005, as Paris/Lamar County Day at the State Capitol.

SB 1190 Wentworth
 Relating to certain procedures governing health care liability claims.

SB 1799 Zaffirini
 Relating to the powers and duties of the Bee Groundwater Conservation District.

Respectfully,
 Patsy Spaw
 Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
 SENATE CHAMBER
 Austin, Texas
 Wednesday, May 4, 2005 - 3

The Honorable Speaker of the House
 House Chamber
 Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 1513 Averitt
 Relating to an interim study regarding the operation of certain state health insurance programs.

SB 1579 Zaffirini
 Relating to the prohibition of signs on certain roads.

SB 1698 Averitt
 Relating to fees and penalties for oil and gas operations.

SB 1821 Fraser
 Relating to the creation of the Flatrock Springs Municipal Management District; granting authority for taxation and the issuance of bonds.

Respectfully,
 Patsy Spaw
 Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 3

Border and International Affairs - **HB 485, HB 1966**

Business and Industry - **SB 99**

Civil Practices - **HB 1122, SB 1224**

Corrections - **HB 1635**

County Affairs - **HB 1475, HB 3486, HB 3511, HB 3533, HB 3537**

Criminal Jurisprudence - **HB 1290, HB 1321, HB 1574, HB 1629, HB 1714, HB 2385**

Culture, Recreation, and Tourism - **HB 1851**

Economic Development - **HB 2421**

Elections - **HB 1580, HB 2030**

Energy Resources - **HB 2983**

Environmental Regulation - **HB 2651**

Financial Institutions - **HB 637, HB 2220**

Government Reform - **HB 1436, HB 1828, HB 2142, HB 2593, HB 2850, HB 2860**

Human Services - **HB 2967**

Land and Resource Management - **HB 2833**

Law Enforcement - **HB 986**

Licensing and Administrative Procedures - **HB 273, HB 275, HB 3122**

Local Government Ways and Means - **HB 2393, HB 2638, HB 3187, HB 3450, HJR 98, SB 767, SB 898, SB 1203, SB 1339**

Natural Resources - **HB 1207, HB 3513**

Public Education - **HB 31, HB 515, HB 1106, HB 3012**

Public Health - **HB 1492, HB 2053, HB 2060, HB 2101, HB 2471, HB 2706, HB 2997, HB 3089**

State Affairs - **SB 308, SB 690, SCR 8**

Urban Affairs - **HB 3526, HB 3550, HB 3560, SB 879**

ENGROSSED

May 3 - HB 159, HB 664, HB 1048, HB 1172, HB 1235, HB 1426, HB 1579, HB 1919, HB 1986, HB 2135, HB 2241, HB 2623, HB 2799, HB 2966

ENROLLED

May 3 - HCR 136, HCR 148

SENT TO THE GOVERNOR

May 3 - HCR 136, HCR 148

